

LAWS OF THE WEST INDIES

CHAPTER 2

FEDERAL SUPREME COURT RULES

CHAPTER 2

THE FEDERAL SUPREME COURT (ORIGINAL
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S.I. 10/1958. **RULES** made by the Chief Justice and two Judges of the Federal Supreme Court under article 85 of the Constitution of The West Indies.

Date of making 7th July, 1958

Commencement 7th July, 1958

ORDER I

SHORT TITLE, INTERPRETATION AND APPLICATION

Short title. 1. These Rules may be cited as the Federal Supreme Court (Original Jurisdiction) Rules, 1958.

Applica- 2. These Rules shall apply in all proceedings instituted in the Federal
tion. Supreme Court in the exercise of its original civil jurisdiction under articles 42, 80 and 81 of the Constitution and to all such proceedings taken on or after that day in all causes or matters then pending; provided that in proceedings under article 42, these Rules shall apply subject to the Federal Legislature (Membership Controversies) Rules, 1958.

Applica- 3. (1) The provisions of the Interpretation Regulations, 1958, shall,
tion of unless inconsistent with the context, be applied in the interpretation of these
Interpre- Rules as if these Rules were an Act.
Regula-
tions, 1958.

Interpre- (2) The expressions interpreted in article 116 of the Constitution
tation in shall have the same meaning when used in these Rules.
article 116
of the
Constitu-
tion to
apply.

FEDERAL SUPREME COURT (ORIGINAL JURISDICTION) RULES—O. I

4. In these Rules, unless it is expressly provided or the context otherwise requires — Defini-
tions.

“action” means a civil proceeding commenced by a writ or in such other manner as is prescribed by Rules of Court, but does not include a criminal proceeding by the Crown;

“advocate” means any legal representative duly authorised by a party to legal proceedings in the Federal Supreme Court and having the right of audience in the Court;

“cause” includes a suit and criminal proceedings;

“Central Registry” means the registry of the Federal Supreme Court under the direct supervision and control of the Registrar which expression for the purposes of this definition does not include Deputy Registrar;

“Court” or “Supreme Court” means the Federal Supreme Court of The West Indies;

“defendant” includes a respondent or person against whom relief is sought by originating process;

“deputy registrar” means any person appointed as such in terms of regulation 4 of the Regulations;

“file” means file in a Registry, and “filed” and “filing” have corresponding meanings;

“Judge” means a Judge of the Court including the Chief Justice and in the expression “Court or a Judge” means a Judge of the Court sitting in chambers;

“judgment” includes decree and order;

“legal representative” means any barrister, advocate, solicitor, attorney or legal practitioner admitted to practise as such in any part of the Federation whether or not he has the right of audience in the Supreme Court;

“matter” includes a proceeding in a Court, whether between parties or not, and also an incidental proceeding in a cause or matter;

“originating summons” means every summons not in any pending cause or matter;

“party” and “parties” include as well as the plaintiff and defendant —

(a) a person not originally a party against whom a counterclaim is set up or who has been served with notice to appear under any of these Rules;

(b) a person served with notice of or attending a proceeding although not named on the record in the process;

“person” with reference to a party to any proceedings includes the Federation, a Territory or any person representing either the Federation or a Territory;

“plaintiff” includes an applicant or person seeking relief against another person by a form of proceedings in the Court;

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- “proceeding” includes action, cause, matter and suit;
- “Registrar” means the Registrar of the Federal Supreme Court and includes a Deputy Registrar or other officer for the time being discharging the duties of the Registrar or Deputy Registrar;
- “Regulations” means the Federal Supreme Court Regulations, 1958;
- “Sheriff” means and includes the Sheriff, Bailiff or Marshal of the Territory in which the process of the Supreme Court falls to be executed and includes the deputy sheriff, or under sheriff, or deputy marshal of such Territory;
- “Solicitor” means any person who is entitled to practice in the superior Court of a Territory not being an advocate;
- “sub-registry” means any registry of the Federal Supreme Court other than the Central Registry;
- “sue” means commence or take part in proceedings as plaintiff, petitioner or applicant;
- “suit” includes an action or original proceeding between parties;
- “Taxing Officer” means the Registrar whose duty it is to tax costs to be taxed in the Court;
- “trial” includes hearing;
- “writing” includes printing, typewriting, cyclostyling and other similar methods of producing words in a visible form and “written” has a corresponding meaning;
- “written proceedings” means any affidavit, application, bill of costs, confession, summons, declaration, defence, notice, statement of claim or other document or pleading which is required by these Rules to be filed.

Where no provision made in these Rules the practice and procedure of High Court of Justice in England to apply.

5. In the exercise of its original jurisdiction where no provision exists in these Rules the practice and procedure of the Supreme Court shall be exercised in substantial conformity with the practice and procedure for the time being observed in England in the High Court of Justice.

ORDER II

PRELIMINARY

Number of copies to be filed.

1. Whenever under these Rules any document is required to be filed with the Court, there shall also be filed three copies of such document but the Registrar may in any case order that a greater or less number of copies shall be filed.

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2. (1) The Court or Judge may enlarge the time prescribed by these Rules for the doing of anything to which these Rules apply, or may direct a departure from these Rules in any other way where this is required in the interests of justice.

Power of Court to enlarge time or direct departure from Rules.

(2) An enlargement of time may be ordered although the application for it is not made until the expiration of the time appointed or fixed.

3. Sessions of the Supreme Court shall be convened and constituted and the time, venue, and forum for all sessions and hearing interlocutory applications shall be settled in accordance with directions to be given by the Chief Justice.

Sessions.

4. Interlocutory applications may be heard and determined by one Judge of the Supreme Court: Provided that no direction or order made on an interlocutory application shall operate so as to bar or prejudice the Supreme Court from giving such decision upon the case as may be just.

Interlocutory applications.

5. Any person aggrieved by anything done or ordered to be done by a Registrar other than anything ordered or done by the direction of the Chief Justice, may apply to a Judge of the Supreme Court to have the act, order, or ruling complained of set aside or varied and the Judge may give such directions or make such order thereon as he thinks fit. Such application shall be made by notice of motion supported by affidavits setting out the complaint and the relief sought.

Setting aside or varying order of Registrar.

6. (1) All written proceedings in the Supreme Court shall be on foolscap of good quality unless the nature of the document renders it impracticable and shall be clear and easily legible, and may be printed, cyclostyled, typewritten or reproduced in photostat or in any combination of these media. The typewriting or printing shall be double-spaced and only one side of the paper shall be used and a margin of not less than two inches shall be left on the left hand side of each sheet to permit of binding in book form.

Written proceedings.

(2) The statements made in any such document shall be divided into paragraphs numbered consecutively, each paragraph containing as nearly as can be a separate allegation.

(3) Dates, sums, and numbers shall be expressed in figures and not in words.

7. The forms prescribed in Appendix A or forms of like effect shall be used in all proceedings to which they are applicable with such variations as the circumstances may require.

List of Forms.

8. (1) The name of every plaintiff and defendant, the year, and the number of the action as appearing on the writ of summons shall form the title of the action, and every pleading, affidavit and document required by these Rules to be filed in the Registry or served upon any party to the action shall be entitled with the title of the action.

Title.

FEDERAL SUPREME COURT (ORIGINAL JURISDICTION) RULES—O. III

(2) In any action where there is more than one plaintiff or defendant it shall be sufficient if any document other than the writ of summons is entitled with the name of the first plaintiff or defendant, and it be stated that there are other plaintiffs or defendants as the case may be.

ORDER III

PARTIES

Suits by
or against
a govern-
ment.

1. (1) In all proceedings in which the Federation or a Territory sue or are sued, the Attorney General of the Federation or of the Territory, as the case may be, shall be the nominal party.

(2) For the purpose of this section the reference to the Attorney General of a Territory includes the Crown Attorney of that Territory.

Joinder of
plaintiffs.

2. All persons may be joined in one action as plaintiffs, in whom any right to relief (in respect of or arising out of the same transaction or series of transactions) is alleged to exist, whether jointly, severally, or in the alternative, (where if such persons brought separate actions any common question of law or fact would arise; provided that, if upon the application of any defendant it shall appear that such joinder may embarrass or delay the trial of the action, the Court or a Judge may order separate trials, or make such other order as may be expedient), and judgment may be given for such one or more of the plaintiffs as may be found to be entitled to relief, for such relief as he or they may be entitled to without any amendment. But the defendant, though unsuccessful, shall be entitled to his costs occasioned by so joining any person who shall not be found entitled to relief unless the Court or a Judge in disposing of the costs shall otherwise direct.

Substitu-
tion or
addition of
parties.

3. Where any action has been commenced in the name of the wrong person as plaintiff, or where it is doubtful whether it has been commenced in the name of the right plaintiff, the Court or a Judge may, if satisfied that it is necessary for the determination of the real matter in dispute so to do, order any other person to be substituted or added as plaintiff subject to his consent in writing and upon such terms as may be just.

Set-off or
counter-
claim not
affected by
misjoinder.

4. Where in any action any person has been improperly or unnecessarily joined as a co-plaintiff, and a defendant has set up a counter-claim or set-off, he may obtain the benefit thereof by establishing his set-off or counter-claim as against the parties other than the co-plaintiff so joined, notwithstanding the misjoinder of such plaintiff or any proceeding consequent thereon.

Joinder of
defendants.

5. All persons may be joined as defendants against whom the right to any relief is alleged to exist, whether jointly, severally, or in the alternative. And judgment may be given against such one or more of the defendants, as may be found to be liable, according to their respective liabilities, without any amendment.

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6. It shall not be necessary that every defendant shall be interested as to all the relief prayed for, or as to every cause of action included in any proceeding against him; but the Court or a Judge may make such order as may appear just to prevent any defendant from being embarrassed or put to expense by being required to attend any proceedings in which he may have no interest.

Defendant need not be interested in all relief claimed.

7. Where the plaintiff is in doubt as to the person from whom he is entitled to redress, he may join two or more defendants, to the intent that the question as to which, if any, of the defendants is liable, and to what extent, may be determined as between all parties.

Plaintiff in doubt as to person from whom redress sought.

8. Trustees, executors, and administrators may sue and be sued on behalf of or as representing the property or estate of which they are trustees or representatives, without joining any of the persons beneficially interested in the trust or estate, and shall be considered as representing such persons, but the Court or a Judge may, at any stage of the proceedings, order any of such persons to be made parties, either in addition to or in lieu of the previously existing parties.

Trustees, etc., may sue and be sued as representing estate.

9. Where there are numerous persons having the same interest in one cause or matter, one or more of such persons may sue or be sued, or may be authorized by the Court or a Judge to defend in such cause or matter, on behalf or for the benefit of all persons so interested.

Numerous persons with common interest.

10. No cause or matter shall be defeated by reason of the misjoinder or nonjoinder of parties, and the Court may in every cause or matter deal with the matter in controversy so far as regards the rights and interests of the parties actually before it. The Court or a Judge may, at any stage of the proceedings, either upon or without the application of either party, or upon the application of any party who claims to be interested, and on such terms as may appear to the Court or a Judge to be just, order that the names of any parties improperly joined, whether as plaintiffs or defendants, be struck out, and that the names of any parties, whether plaintiffs or defendants, who ought to have been joined, or whose presence before the Court may be necessary in order to enable the Court effectually and completely to adjudicate upon and settle all the questions involved in the cause or matter, be added. No person shall be added as a plaintiff without his own consent in writing thereto. Every party whose name is so added as defendant shall be served with a writ of summons or notice in manner herein provided; or in such manner as may be prescribed by any special order, and the proceedings as against such party shall be deemed to have begun only on the service of such writ or notice.

Misjoinder and non-joinder striking out and adding parties. Consent of plaintiff.

11. Any application to add or strike out or substitute a plaintiff or defendant may be made to the Court or a Judge at any time before the trial by notice of motion, or at the trial of the action in a summary manner.

Application to add, strike out, etc.

FEDERAL SUPREME COURT (ORIGINAL JURISDICTION) RULES—O. IV

Amend-
ment of
writ of
summons
where
defendant
added.

12. Where a defendant is added or substituted, the writ of summons or originating summons shall be amended accordingly, and the plaintiff shall, unless otherwise ordered by the Court or a Judge, file a copy of the writ or originating summons as amended, and serve the new defendant with such amended writ or originating summons or notice in lieu of service thereof in the same manner as original defendants are served, and the proceedings shall be continued as if the new defendant had originally been made a defendant.

ORDER IV

WRIT OF SUMMONS, INDORSEMENT OF CLAIM
AND PROCEDURE, *etc.*

Proceed-
ings under
Article 80
(1) (a)
and (c) of
the Consti-
tution
how insti-
tuted.

1. Unless the Chief Justice otherwise directs, all proceedings in an action taken under sub-paragraphs (a) and (c) of paragraph (1) of article 80 of the Constitution shall be instituted in the Central Registry.

Every
action to
be com-
menced by
writ.

2. (1) Every action other than proceedings under Order XXXI shall be commenced by a writ of summons, to be issued out of the Registry, which shall be indorsed with a statement of the nature of the claim made or of the relief or remedy required in the action.

Represent-
ative
capacity
to be
stated.

(2) If any plaintiff sues, or any defendant is sued, in a representative capacity, the indorsement shall show in what capacity the plaintiff or defendant sues or is sued.

Indorse-
ment of
account.

3. In all cases in which the plaintiff, in the first instance, desires to have an account taken, the writ of summons shall be indorsed with a claim that such account be taken.

Parties to
be named.

4. Every writ of summons shall state at the head thereof the name of every plaintiff and defendant and shall contain in the body thereof the name and place of residence or business of every defendant as far as known.

Contents
of writ.

5. Every writ of summons shall call upon the defendant to enter an appearance within ten days inclusive of the date on which service of the writ was effected.

Form of
writ. All
writs to be
tested.
Form 1.

6. Writs of summons shall be in Form I in Appendix A to these Rules, with such variations as the nature of the case may require, and shall be tested in the name of the Chief Justice or acting Chief Justice, or if there be no Chief Justice or acting Chief Justice, in the name of a Federal Justice.

Issue of
writ.

7. The writ of summons shall be prepared by the plaintiff or his solicitor, and shall be presented to the Registrar at the Central Registry, who shall date the writ as of the day of issue, and shall affix the seal of the Court

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LAWS OF THE WEST INDIES

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thereto. The writ of summons when so dated and sealed shall be filed by the Registrar, and shall then be deemed to be issued. The writ so filed is hereinafter referred to as the original writ.

8. At the time when any writ is presented to the Registrar to be filed, there shall be left at the Central Registry as many copies thereof as may be required for service upon the defendants to be served. Copies of writ.

9. The Registrar shall place at the head of each original writ the date of the year and the number of the writ. Writs of summons shall be numbered throughout each year in the order in which they are issued. Writ to be dated, and numbered at head.

10. The copy of a writ of summons to be served upon a defendant shall be compared by the Registrar with the original writ, and shall be certified by him to be a true copy, and shall be dated, numbered and sealed by him in like manner as the original writ. Copy of writ to be dated, numbered and certified.

11. No original writ of summons shall be in force for more than twelve months from the day of the date thereof, including the day of such date except by leave of a Judge who, on application, may order that the original writ be renewed for six months from the date of such renewal inclusive, and so from time to time during the currency of the renewed writ. And the writ shall in such case be renewed by being marked with a seal bearing the date of the day, month, and year of such renewal; and a writ of summons so renewed shall remain in force and be available to prevent the operation of any statute whereby the time for the commencement of the action may be limited, and for all other purposes from the date of the issuing of the original writ of summons. Renewal of writ.

ORDER V

INDORSEMENT OF ADDRESS FOR SERVICE

1. The solicitor of a plaintiff suing by a solicitor shall indorse upon the writ of summons before the same is issued, and upon every notice in lieu of service of a writ of summons, the address of the plaintiff and also his own name and that of his firm and his place of business and also a proper place to be called his address for service within five miles of the Central Registry where all writs, notices, pleadings, petitions, orders, summonses, warrants and other documents, proceedings and written communications, if not required to be served personally, may be left for him. Solicitor's address for service.

2. A plaintiff suing in person shall indorse upon the writ of summons before the same is issued, and upon every notice in lieu of service of a writ of summons, his place of residence and occupation, and some proper place within five miles of the Central Registry to be called his address for service, where all notices, pleadings, petitions, orders, summonses, warrants and other documents, proceedings and other written communications, if not required to be served personally, may be left for him. Plaintiff's address for service.

FEDERAL SUPREME COURT (ORIGINAL JURISDICTION) RULES—O. VI

Proceed-
ings not
commenced
by writ.

3. In all cases where the proceedings are commenced otherwise than by writ of summons, the preceding rules of this Order shall apply to the document by which such proceedings shall be originated as if it were a writ of summons, and the provisions of Order IV rule 8 shall apply to such document.

ORDER VI
APPEARANCE

Entry of
appear-
ance.

1. Except as hereinafter provided, a defendant shall enter appearance in the Registry.

Appear-
ance how
entered.

2. A defendant shall enter his appearance to a writ of summons by filing in the Registry in which proceedings are commenced a memorandum in writing, dated on the day of its filing, and containing the name of the defendant's solicitor, or stating that the defendant defends in person.

Solicitor's
address
for ser-
vice.

3. The solicitor of a defendant appearing by a solicitor shall state in the memorandum of appearance his place of business, and a place to be called his address for service, which shall be within five miles of the Registry in which proceedings are commenced.

Defend-
ant's
address for
service.

4. A defendant appearing in person shall state in the memorandum of appearance his place of residence or of business, and a place to be called his address for service, which shall be within five miles of the Registry in which proceedings are commenced.

Memo-
randum
irregular;
address
fictitious.

5. If the memorandum of appearance does not contain the address for service, it shall not be received. If such address shall be illusory or fictitious, the appearance may be set aside by the Court or a Judge on the application of the plaintiff.

Memo-
randum of
appear-
ance.
Form 2.

6. The memorandum of appearance shall be in Form 2 in Appendix A to these Rules with such variations as the nature of the case may require.

Notice of
appear-
ance.

7. A defendant shall not later than the day following the day on which he enters an appearance give notice of his appearance to the plaintiff's solicitor, or, if the plaintiff sues in person, to the plaintiff himself.

Time for
appear-
ance.

8. A defendant may appear at any time before judgment. If he appear at any time after the time limited by the writ or notice of writ for appearance, he shall not, unless the Court or a Judge shall otherwise order, be entitled to any further time for delivering his defence or for any other purpose than if he had appeared according to the writ.

Appear-
ance of
person
other than
a defend-
ant

9. Any person other than a defendant entering an appearance in compliance with any Rule of Court shall do so in like manner as a defendant is required to enter an appearance under this Order.

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10. Any person not named as a defendant in a writ of summons for the recovery of land may by leave of the Court or a Judge appear and defend, on filing an affidavit showing that he is in possession of the land, either by himself or by his tenant. Recovery of land.

11. Any person appearing to defend an action for the recovery of land as landlord in respect of property whereof he is in possession only by his tenant shall state in his appearance that he appears as landlord. Landlord appearing.

12. Where a person not named as defendant in any writ of summons for the recovery of land has obtained leave of the Court or a Judge to appear and defend, he shall enter an appearance according to the foregoing rules of this Order intituled in the action against the party named in the writ as defendant, and shall forthwith give notice of such appearance to the plaintiff's solicitor, and shall in all subsequent proceedings be named as a party defendant to the action. Recovery of land: Person not named defendant.

13. Any person appearing to a writ of summons for the recovery of land shall be at liberty to limit his defence to a part only of the property mentioned in the writ, describing that part with reasonable certainty in his memorandum of appearance, or in a notice intituled in the action and signed by him or his solicitor. Such notice shall be served upon the plaintiff within four days after appearance; and an appearance, when the defence is not limited as above-mentioned, shall be deemed to be an appearance to defend for the whole. Recovery of land: limiting defence.

14. (1) An entry of appearance shall not constitute a submission to the jurisdiction of the Court and it shall not be necessary to enter a conditional appearance or an appearance under protest. Setting aside writ.

(2) A defendant shall be entitled either before entering appearance or within seven days after entering appearance to take out and serve a summons or serve notice of motion, to set aside the service upon him of the writ or of notice of the writ or to discharge the order authorising such service or to strike out the writ, on the ground that —

- (i) the Court has no jurisdiction to determine all or part of the plaintiff's claim, or
- (ii) the issue or service of the writ was irregular.

(3) After the service of such summons or notice of motion the plaintiff shall not be entitled to obtain judgment in default or take any other step in the action without leave of the Court or a Judge.

ORDER VII

DEFAULT OF APPEARANCE

1. Where any defendant fails to appear to a writ of summons, and the plaintiff is desirous of proceeding upon default of appearance under any of the following rules of this Order or under Order VIII, he shall, before taking such proceeding upon default, file an affidavit of service, or of notice in lieu of service, as the case may be. Default of appearance generally.

FEDERAL SUPREME COURT (ORIGINAL JURISDICTION) RULES—O. VIII

Judgment
for costs.

2. Where the defendant fails, or all the defendants, if more than one, fail to appear, but by reason of payment, satisfaction, abatement of nuisance, or for any other reason it is unnecessary for the plaintiff to proceed with the action, he may apply by summons for a judgment for costs.

Applica-
tion for
judgment.

3. In any case where the defendant, or all the defendants, if more than one, fail to appear to the writ of summons, the plaintiff may subject to the provisions of Order VIII (where an account is claimed) on filing a certificate of non-appearance and a statement of claim and a request for hearing, have the action entered for hearing *ex parte* before a single Judge and the Judge shall hear such action *ex parte* forthwith or fix a day for such hearing and in such case may direct that notice of such fixture be served on the defendant by registered post or otherwise and published in the Government Gazette of the Territory in which the defendant is resident.

Discretion
as to giv-
ing or set-
ting aside
judgment.

4. Where application for judgment is made pursuant to the preceding Rules of this Order the Court or a Judge instead of giving judgment may make such order or give such directions as the Court or Judge may think fit; and where judgment has been obtained pursuant to the preceding rules of this Order the Court or a Judge may set aside or vary such judgment upon such terms as may be just.

ORDER VIII

APPLICATION FOR AN ACCOUNT

Orders for
account.

1. Where a writ of summons has been indorsed for an account under Order IV rule 3, or where the indorsement on a writ of summons involves taking an account, if the defendant either fails to appear, or does not after appearance, by affidavit or otherwise, satisfy the Court or a Judge that there is some preliminary question to be tried, an order for proper accounts, with all necessary and usual inquiries and directions, shall, on application by the plaintiff as provided in rule 2 of this Order, be forthwith made.

Applica-
tion how
made.

2. An application for such order as mentioned in the last preceding rule shall be made by summons, and be supported by an affidavit, when necessary, filed on behalf of the plaintiff, stating concisely the grounds of his claim to an account. The application may be made at any time after the time for entering an appearance has expired.

ORDER IX

THIRD PARTY PROCEDURE

Third
party
notice.

1. (1) Where in any action a defendant claims as against any other person not already a party to the action (in this Order called the third party) —

- (a) that he is entitled to contribution or indemnity, or
- (b) that he is entitled to any relief or remedy relating to or connected with the original subject matter of the action and substantially the same as some relief or remedy claimed by the plaintiff, or

FEDERAL SUPREME COURT (ORIGINAL JURISDICTION) RULES—O. IX

- (c) that any question or issue relating to or connected with the said subject matter is substantially the same as some question or issue arising between the plaintiff and the defendant and should properly be determined not only as between the plaintiff and the defendant but as between the plaintiff and defendant and the third party or between any or either of them.

he may, by leave of the Court or a Judge on an ex parte application supported by affidavit issue and serve a notice (hereinafter called a third party notice).

(2) A third party notice shall be issued in the same way as a writ of summons, and a copy of such notice shall be served on such person according to the rules relating to the service of writs of summons. ^{How issued.}

(3) The notice shall state the nature and grounds of the claim, or the nature of the question or issue sought to be determined and the nature and extent of any relief or remedy claimed. The notice shall, unless otherwise ordered by the Court or a Judge, be served within the time limited for delivering the defence or where the notice is served by a defendant to a counterclaim, the reply. Such notice may be in the form or to the effect of Form No. 3 in Appendix A to these Rules with such variations as circumstances may require, and therewith shall be served a copy of the writ of summons or originating summons and of any pleadings delivered in the action. ^{Form and issue of notice. Form 3.}

(4) The third party shall, as from the time of the service upon him of the notice, be a party to the action with the same rights in respect of his defence against any claim made against him and otherwise as if he had been duly sued in the ordinary way by the defendant. ^{Effect of notice.}

2. If the third party, who is served as mentioned in the preceding rule, desires to dispute the plaintiff's claim in the action as against the defendant on whose behalf the notice has been given, or his own liability to the defendant, he must enter an appearance in Form No. 4 in Appendix A to these Rules within ten days or within such further time as may be directed by the Court or a Judge and specified in the notice: provided that a third party failing to appear within such time may apply to the Court or a Judge for leave to appear, and such leave may be given upon such terms, if any, as the Court or Judge shall think fit. ^{Appearance of third party. Form 4.}

3. If a third party duly served with a third party notice does not enter an appearance or makes default in delivering any pleading which he has been ordered to deliver, he shall be deemed to admit the validity of and shall be bound by any judgment given in the action, whether by consent, default or otherwise, and by any decision thereon on any question specified in the notice; and when contribution or indemnity or other relief or remedy is claimed against him in the notice, he shall be deemed to admit his liability in respect of such contribution or indemnity or other relief or remedy. ^{Non-appearance of third party.}

FEDERAL SUPREME COURT (ORIGINAL JURISDICTION) RULES—O. IX

Default of
appear-
ance by
third
party.
Judgment
against.

4. Where a third party makes default in entering an appearance or delivering any pleading which he has been ordered to deliver, in case the defendant giving the notice suffers judgment by default, such defendant shall be entitled at any time, before or after satisfaction of the judgment against himself, to apply to the Court or a Judge to enter judgment against the third party to the extent of any contribution or indemnity claimed in the third party notice or by leave of the Court or Judge to enter such judgment in respect of any other relief or remedy claimed as the Court or a Judge shall direct. After satisfaction the application may be made *ex parte*: provided that it shall be lawful for the Court or Judge to set aside or vary such judgment against the third party upon such terms as may seem just.

Applica-
tion for
directions.

5. (1) If the third party appears pursuant to the third party notice, the defendant giving the notice may, after serving notice of the intended application upon the plaintiff, the third party and any other defendant, apply to the Court or a Judge for directions and the Court or Judge may —

- (a) where the liability of the third party to the defendant giving the notice is established on the hearing of the application, order such judgment as the nature of the case may require to be entered against the third party in favour of the defendant, giving the notice, or
- (b) if satisfied that there is a question or issue proper to be tried as between the plaintiff and the defendant and the third party or between any or either of them as to the liability of the defendant to the plaintiff or as to the liability of the third party to make any contribution or indemnity claimed, in whole or in part, or as to any other relief or remedy claimed in the notice by the defendant or that a question or issue stated in the notice should be determined not only as between the plaintiff and the defendant but as between the plaintiff, the defendant and the third party or any or either of them, order such question or issue to be tried at or after the trial of the action and in such manner as the Court or Judge may direct, or
- (c) dismiss the application

(2) Any directions given pursuant to this rule may be given either before or after any judgment has been signed by the plaintiff against the defendant in the action, and may be varied from time to time and may be rescinded.

(3) The third party proceedings may at any time be set aside by the Court or Judge.

What
directions
may be
given,
leave to
defend etc.

6. The Court or a Judge upon the hearing of the application mentioned in the last preceding rule may, if it shall appear desirable to do so, give the third party liberty to defend the action, either alone or jointly with the original defendant upon such terms as may be just, or to appear at the trial and take such part therein as may be just, and generally may order such proceedings to be taken, pleadings or documents to be delivered, or amendments to be made, and give such directions as to the

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Court or Judge shall appear proper for having the question and the rights and liabilities of the parties most conveniently determined and enforced, and as to the mode and extent in or to which the third party shall be bound or made liable by the decision or judgment in the action.

7. (1) Where the action is tried, the Judge who tries the action may, At trial. at or after the trial, enter such judgment as the nature of the case may require for or against the defendant giving the notice, against or for the third party, and may grant to the defendant or to the third party any relief or remedy which might properly have been granted if the third party had been made a defendant to an action duly instituted against him by the defendant: provided that execution shall not be issued without leave of the Court or a Judge until after satisfaction by the defendant of the judgment against him.

(2) Where the action is decided otherwise than by trial, the Court or Judge may, on application by motion or summons, make such order as the nature of the case may require, and, where the plaintiff has recovered judgment against the defendant, may order such judgment as may be just to be entered for or against the defendant giving notice against or for the third party.

8. The Court or a Judge may decide all questions of costs as between Costs. a third party and other parties to the action, and may order any one or more of them to pay the costs of any other or others, or give such directions as to costs as the justice of the case may require.

9. (1) Where a third party makes as against any person not already Fourth and a party to the action such a claim as is defined in rule 1 of this Order, the subsequent provisions of this Order regulating the rights and procedure as between the parties. defendant and the third party shall apply mutatis mutandis as between the third party and such other person, and the Court or Judge may give leave to such third party to issue a third party notice, and the preceding rules of this Order shall apply mutatis mutandis, and the expression "third party notice" and "third party" shall apply to and include every notice so issued and every person served with such notice respectively.

(2) Where a person served with a notice under this rule by a third party in turn makes such a claim as is defined in rule 1 of this Order against another person not already a party to the action, this Order as applied by this rule shall have effect as regards such further person and any other further person or persons so served and so on successively.

10. (1) Where a defendant claims against another defendant —

Co-defendants.

- (a) that he is entitled to contribution or indemnity, or
- (b) that he is entitled to any relief or remedy relating to or connected with the original subject-matter of the action and substantially the same as some relief or remedy claimed by the plaintiff, or

FEDERAL SUPREME COURT (ORIGINAL JURISDICTION) RULES—O. X

- (c) that any question or issue relating to or connected with the said subject-matter is substantially the same as some question or issue arising between the plaintiff and the defendant making the claim and should properly be determined not only as between the plaintiff and the defendant making the claim but as between the plaintiff and that defendant and another defendant or between any or either of them.

the defendant making the claim may without any leave issue and serve on such other defendant a notice making such claim or specifying such question or issue.

(2) No appearance to such notice shall be necessary and the same procedure shall be adopted for the determination of such claim, question or issue between the defendants as would be appropriate under this Order if he were a third party.

(3) Nothing herein contained shall prejudice the rights of the plaintiff against any defendant to the action.

Applica-
tion of this
Order to
action
under
Article 80
(1) (a) of
the Consti-
tution.

11. In relation to any action brought under sub-paragraph (a) of paragraph 1 of article 80 of the Constitution the expression "third party" in this Order means the Federation and a Territory but no other person.

ORDER X

JOINDER OF CAUSES OF ACTION

All causes
of action
may be
joined.

1. Subject to the following rules of this Order, the plaintiff may unite in the same action several causes of action; but if it appear to the Court or a Judge that any such causes of action cannot be conveniently tried or disposed of together, the Court or Judge may order separate trials of any such causes of action to be had, or may make such other order as may be necessary or expedient for the separate disposal thereof.

Claims by
joint
plaintiffs.

2. Claims by plaintiffs jointly may be joined with claims by them or any of them separately against the same defendant.

Remedy
for mis-
joinder.

3. Any defendant, alleging that the plaintiff has united in the same action several causes of action which cannot be conveniently disposed of together, may at any time apply to the Court or a Judge for an order confining the action to such of the causes of action as may be conveniently disposed of together.

Order for
exclusion.

4. If, on the hearing of such application as in the last preceding rule mentioned, it shall appear to the Court or a Judge that the causes of action are such as cannot all be conveniently disposed of together, the Court or a Judge may order any of such causes of action to be excluded, and consequential amendments to be made, and may make such order as to costs as may be just.

FEDERAL SUPREME COURT (ORIGINAL JURISDICTION) RULES—O. XI

ORDER XI

PLEADINGS GENERALLY

STATEMENT OF CLAIM, DEFENCE AND COUNTERCLAIM

1. The plaintiff shall, subject to the provisions of rule 22 of this Order, and at such time and in such manner as therein prescribed, deliver to the defendant a statement of his claim, and of the relief or remedy to which he claims to be entitled. The defendant shall, subject to the provisions of rule 27 of this Order, and at such time and in such manner as therein prescribed, deliver to the plaintiff his defence, set-off, or counterclaim (if any), and the plaintiff shall, subject to the provisions of rules 37 and 38 of this Order, and at such time and in such manner as therein prescribed, deliver his reply (if any) to such defence, set-off, or counterclaim. Such statements shall be as brief as the nature of the case will admit, and the Taxing Officer in adjusting the costs of the action shall at the instance of any party, or may without any request, inquire into any unnecessary prolixity, and order the costs occasioned by such prolixity to be borne by the party chargeable with the same. All pleadings shall be filed with the Registrar before delivery to the opposite party as required by this rule.

Filing and delivery of pleadings.
Cost of prolix pleadings.

2. Every pleading shall state the title of the action and the description of the pleading and the date on which it is filed with the Registrar, and on the last sheet of it there shall be endorsed the name and address of the legal representative filing the same, or the name and address of the party if he does not act by a legal representative.

Marking pleadings.

3. Every pleading shall contain, and contain only, a statement in a summary form of the material facts on which the party pleading relies for his claim or defence, as the case may be, but not the evidence by which they are to be proved, and shall, when necessary, be divided into paragraphs numbered consecutively. Signature of counsel shall not be necessary; but where pleadings have been settled by counsel or a special pleader they shall be signed by him; and if not so settled they shall be signed by the solicitor or by the party if he sues or defends in person.

Only material facts to be pleaded.

4. Except as provided by rule 5 of this order, every allegation in a statement of claim shall be dealt with by the opposite party specifically. He must admit or deny every allegation, or state that he has no knowledge concerning it, or confess and avoid it. Every allegation not so dealt with shall be taken to be admitted.

Pleadings to allegations in a statement of claim.

5. No denial or defence shall be necessary as to damages claimed or their amount, but they shall be deemed to be put in issue in all cases unless expressly admitted.

Damages to be in issue without pleading.

6. Where the Court is of opinion that any allegation of fact denied or not admitted by the defendant ought to have been admitted, the Court may make such order as shall be just with respect to any extra costs occasioned by its having been denied or not admitted.

Costs occasioned by failing to admit or deny facts.

FEDERAL SUPREME COURT (ORIGINAL JURISDICTION) RULES—O. XI

Condition precedent.

7. Any condition precedent, the performance or occurrence of which is intended to be contested, shall be distinctly specified in his pleading by the plaintiff or defendant (as the case may be); and, subject thereto, an averment of the performance or occurrence of all conditions precedent necessary for the case of the plaintiff or defendant shall be implied in his pleading.

Matters requiring to be specially pleaded.

8. The defendant or plaintiff (as the case may be) must raise by his pleading all matters which show the action or counterclaim not to be maintainable, or that the transaction is either void or voidable in point of law, and all such grounds of defence or reply, as the case may be, as if not raised would be likely to take the opposite party by surprise, or would raise issues of fact not arising out of the preceding pleadings, as, for instance, fraud, statute of limitations, release, payment, performance, facts showing illegality either by statute or common law, or Statute of Frauds.

Notice.

9. Wherever it is material to allege notice to any person of any fact, matter, or thing, it shall be sufficient to allege such notice as a fact, unless the form or the precise terms of such notice, or the circumstances from which such notice is to be inferred, be material.

Presumptions of law.

10. Neither party need in any pleading allege any matter of fact which the law presumes in his favour or as to which the burden of proof lies upon the other side, unless the same has first been specially denied (e.g., consideration for a bill of exchange where the plaintiff sues only on the bill, and not for the consideration as a substantive ground of claim).

Effect of documents to be stated.

11. Wherever the contents of any document are material, it shall be sufficient in any pleading to state the effect thereof as briefly as possible, without setting out the whole or any part thereof, unless the precise words of the document or any part thereof, are material.

Malice, knowledge etc. Condition of mind.

12. Wherever it is material to allege malice, fraudulent intention, knowledge or other condition of the mind of any person, it shall be sufficient to allege the same as a fact without setting out the circumstances from which the same is to be inferred.

Striking out and amendment of pleadings.

13. (1) A Judge may at any stage of the proceedings order to be struck out or amended —

- (a) any argumentative or irrelevant or superfluous matter stated in any pleading,
- (b) any evasive or vague and embarrassing or inconsistent and contradictory matter stated in any pleading,
- (c) any matter stated in any indorsement or pleading which may be unnecessary or scandalous or which may tend to prejudice, embarrass or delay the fair trial of the action;

and may in any such case, if he shall think fit, order the costs of the application to be paid as between solicitor and client.

(2) Any application made under this rule shall be made in chambers by notice under an application for directions.

FEDERAL SUPREME COURT (ORIGINAL JURISDICTION) RULES—O. XI

14. No technical objection shall be raised to any pleading on the ground of any alleged want of form.

Technical objection to want of form.

15. A further and better statement of the nature of the claim or defence, or further and better particulars of any matter stated in any pleading, notice, or written proceeding requiring particulars, may in all cases be ordered, upon such terms, as to costs and otherwise, as may be just.

Further and better statement, or particulars.

16. (1) Before applying to a Judge by summons or notice —

(a) to strike out any portion of a pleading on any grounds, or

(b) for a further and better statement of the nature of the claim or defence, or

(c) for particulars,

Procedure precedent to application to strike out, etc.

the party complaining, or desiring particulars, may state by letter to the other party the nature of his complaint, or of the particulars he requires, and call upon the other party to amend his pleading so as to remove the cause of complaint or to furnish the required particulars, as the case may be.

(2) The costs of any such necessary letter and of any matters incidental thereto, including any necessary conferences with counsel, shall be allowable on taxation.

(3) In dealing with the costs of any application to strike out, or for a further and better statement of the nature of the claim or defence, or for particulars, the provisions of this rule shall be taken into consideration by the Judge.

17. A party shall state all pleas and make all his applications to strike out at once: Provided that where application for particulars or a better statement or to strike out is made, it shall not be necessary to plead to the merits of the case.

Pleas to accompany application to strike out.

18. Any party who has applied for particulars shall file with the Registrar copies of his application and of the reply received to it. These copies shall be filed at least four days before the day fixed for the hearing of the principal application under rule 16 of this Order.

Filing of application for particulars and reply.

Statement of Claim

19. Every statement of claim shall state truly and concisely the name and description of the party suing and his place of residence or place of business, and, if he sues in a representative capacity, the capacity in which he sues; the name of the defendant and his place of residence or place of business, and, if he is used in a representative capacity, the capacity in which he is sued; the nature, extent and grounds of the cause of action, complaint or demand.

Contents of statement of claim.

FEDERAL SUPREME COURT (ORIGINAL JURISDICTION) RULES—O. XI

Relief to be specifically stated. 20. Every statement of claim shall state specifically the relief which the plaintiff claims, either simply or in the alternative, and it shall not be necessary to ask for general or other relief, which may always be given, as the Court or a Judge may think just, to the same extent as if it had been asked for. And the same rule shall apply to any counterclaim made, or relief claimed by the defendant, in his defence.

Relief founded on separate grounds. 21. Where the plaintiff seeks relief in respect of several distinct claims or causes of complaint founded upon separate and distinct grounds, they shall be stated, as far as may be, separately and distinctly. And the same rule shall apply where the defendant relies upon several distinct grounds of defence, set-off, or counterclaim, founded upon separate and distinct facts.

Time for delivery of statement of claim. 22. Subject to the provisions of Order VII rule 3, as to filing a statement of claim when there is no appearance, the plaintiff shall file with the Registrar and deliver a statement of claim either with the writ of summons or notice in lieu of the writ of summons, or within fourteen days after appearance.

Claim beyond indorsement. 23. Whenever a statement of claim is delivered the plaintiff may therein alter, modify, or extend his claim without any amendment of the indorsement of the writ. Provided that the statement required by paragraph (1) (b) of rule 2 of Order IV relating to the plaintiff's choice of law may not be modified in the statement of claim without amending the indorsement on the writ, such amendment to be made only by order of the Court or a Judge.

Defence and Counterclaim

Mere denial insufficient. 24. In actions for a debt or liquidated demand in money, a mere denial of the debt shall be insufficient.

Defences in other actions. 25. A defence in denial must deny such matters of fact, from which the liability of the defendant is alleged to arise, as are disputed.

Distinct grounds. 26. The same rule shall apply where the defendant relies upon several distinct grounds of defence, set-off or counterclaim founded upon separate and distinct facts.

Time for delivery of defence. 27. When a statement of claim has been delivered to a defendant he shall deliver his defence within fourteen days from the day on which the statement of claim is delivered or from the time limited for appearance, whichever shall be the later.

Proper admissions not made. 28. Where the Court or a Judge shall be of opinion that any allegations of fact denied or not admitted by the defence ought to have been admitted, the Court or Judge may make such order as shall be just with respect to any extra costs occasioned by their having been denied or not admitted.

Counterclaim. 29. Where any defendant seeks to rely upon any grounds as supporting a right of counterclaim, he shall, in his defence, state specifically that he does so by way of counterclaim.

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30. The defendant may set up by way of counterclaim any right of claim he may have against the plaintiff, and such counterclaim shall have the same effect as a cross-action, so as to enable the Court to pronounce a final judgment in the same hearing both on the original claim and on the counterclaim provided that a counterclaim shall not be pleaded which would not, if the claim in that counterclaim were made by a plaintiff in an action, be within the jurisdiction of the Court.

What right or claim may be set up by way of counterclaim.

31. Where legally entitled to do so, the defendant may set off his counterclaim against the plaintiff's claim.

Set-off.

32. A counterclaim shall be so described and shall set forth in paragraphs separate and distinct from the defence the nature, the extent and grounds of the cause of action, complaint or demand.

Contents of counterclaim.

33. Facts and allegations already set forth in the defence, or in the statement of claim and admitted in the defence, may be incorporated in the counterclaim by reference to the relevant paragraphs.

Incorporation in counterclaim of facts in defence.

34. If, in any case in which the defendant sets up a counterclaim, the action of the plaintiff is stayed, discontinued or dismissed, the counterclaim may nevertheless be proceeded with.

Dismissal, etc., of plaintiffs not to affect counterclaim.

35. Where in any action a set-off or counterclaim is established as a defence against the plaintiff's claim, the Court may, if the balance is in favour of the defendant, give judgment for the defendant for such balance, or may otherwise adjudge to the defendant such relief as he may be entitled to upon the merits of the case.

Judgment on counterclaim.

36. The Court may, for good cause shown, order the plaintiff's claim or the counterclaim to be tried separately.

Separate trials.

37. Where the plaintiff desires to deliver a reply, he shall file and deliver it within fourteen days from the delivery of the defence.

Reply.

38. Where a counterclaim is pleaded, a reply thereto shall be subject to the rules applicable to defences.

Reply to counterclaim.

39. No pleading subsequent to reply other than a joinder of issue shall be delivered without leave of a Judge, and then upon such terms as the Judge shall think fit.

No subsequent pleading without leave.

40. Subject to the last preceding rule, every pleading subsequent to reply shall be delivered within fourteen days from the day on which the copy of the previous pleading is delivered.

Time of filing subsequent pleadings.

FEDERAL SUPREME COURT (ORIGINAL JURISDICTION) RULES—O. XII

ORDER XII

MATTERS ARISING PENDING THE ACTION

Defence
to claim.

1. (1) Any ground of defence which has arisen after action brought, but before the defendant has delivered his defence, and before the time limited for his doing so has expired, may be raised by the defendant in his defence, either alone or together with other grounds of defence.

(2) If, after a defence has been delivered, any ground of defence arises to any set-off or counterclaim alleged therein by the defendant, it may be raised by the plaintiff in his reply, either alone or together with any other ground of reply.

Further
defence or
reply.

2. Where any ground of defence arises after the defendant has delivered a defence, or after the time limited for his doing so has expired, the defendant may, and where any ground of defence to any set-off or counterclaim arises after reply, or after the time limited for delivering a reply has expired, the plaintiff may, within fourteen days after such ground of defence has arisen, or at any subsequent time, by leave of the Court or a Judge, deliver a further defence or further reply, as the case may be, setting forth the same.

Confession
of
defence.

3. Whenever any defendant, in his defence, or in any further defence as in the last rule mentioned, alleges any ground of defence which has arisen after the commencement of the action, the plaintiff may deliver a confession of such defence and may thereupon apply ex parte to the Judge for an order for his costs up to the time of the pleading of such defence, unless the Court or a Judge shall, either before or after the delivery of such confession, otherwise order.

ORDER XIII

OBJECTIONS IN POINT OF LAW

Points of
law may be
raised by
pleadings.

1. Any party shall be entitled to raise by his pleading any point of law, and any point so raised shall be disposed of by the Judge who tries the cause at or after the trial, provided that by consent of the parties, or by order of the Court or a Judge on the application of either party, the same may be set down for hearing and disposed of at any time before the trial.

Dismissal
of action,
Scope of
Rules.
Objection
in point
of law.

2. If, in the opinion of the Court or a Judge, the decision of such point of law substantially disposes of the whole action, or of any distinct cause of action, ground of defence, set-off, counterclaim, or reply therein, the Court or Judge may thereupon dismiss the action or make such other order therein as may be just.

Striking
out plead-
ing where
no reason-
able cause
of action
disclosed.

3. The Court or a Judge may order any pleading to be struck out, on the ground that it discloses no reasonable cause of action, or answer, and in any such case or in case of the action or defence being shown by the pleadings to be frivolous or vexatious, the Court or a Judge may order the action to be stayed or dismissed, or judgment to be entered accordingly, as may be just.

FEDERAL SUPREME COURT (ORIGINAL JURISDICTION) RULES—O. XIV

4. No action or proceeding shall be open to objection, on the ground that a merely declaratory judgment or order is sought thereby, and the Court may make binding declarations of right whether any consequential relief is or could be claimed, or not. Declaratory judgment.

ORDER XIV
DISCONTINUANCE

1. The plaintiff may, at any time before receipt of the defendant's defence, or after the receipt thereof before taking any other proceeding in the action (save any interlocutory application), by notice in writing, wholly discontinue his action against all or any of the defendants or withdraw any part or parts of his alleged cause of complaint, and thereupon he shall pay such defendant's costs of the action, or if the action be not wholly discontinued, the costs occasioned by the matter so withdrawn. Such costs shall be taxed, and such discontinuance or withdrawal, as the case may be, shall not be a defence to any subsequent action. In like manner and with the like consequences a defendant may wholly or in part withdraw any counterclaim before the filing of the reply. Discontinuance of claim by plaintiff, and of counterclaim by defendant.

2. Save as in the preceding rule otherwise provided, it shall not be competent for the plaintiff to withdraw the record or discontinue the action or withdraw any part of his cause of complaint without the leave of the Court or a Judge, but the Court or a Judge may, before, or at, or after the hearing or trial, upon such terms as to costs, and as to the bringing of any other action, and otherwise as may be just, order the action to be discontinued, or any part of the alleged cause of complaint to be struck out. The Court or a Judge may, in like manner and with the like discretion as to terms, upon the application of a defendant, order the whole or any part of his alleged grounds of defence or counterclaim to be withdrawn or struck out, but it shall not be competent to a defendant to withdraw his defence or part thereof, without such leave. Discontinuance by leave of the Court.

3. When a cause or action has been entered for trial it may be withdrawn by either plaintiff or defendant, upon producing to the Registrar a consent in writing, signed by the parties or their solicitors. Withdrawal by consent.

4. (1) Any defendant may apply ex parte to the Court or a Judge for the costs of the action if it is wholly discontinued against him, or for the costs occasioned by the matter withdrawn, if the action be not wholly discontinued, in case such respective costs are not paid within four days after taxation, and the Court or a Judge shall give judgment accordingly, unless there appears to be good reason to the contrary. Entering judgment on discontinuance.

(2) The plaintiff may in like manner apply for and obtain judgment for the costs occasioned by any counterclaim or any part thereof, which is withdrawn by a defendant, if such costs are not paid within four days after taxation.

5. If any subsequent action shall be brought before payment of the costs of a discontinued action, for the same or substantially the same, cause of action, the Court or a Judge may, if they or he think fit, order a stay of such subsequent action, until such costs shall have been paid. Staying action until costs paid.

FEDERAL SUPREME COURT (ORIGINAL JURISDICTION) RULES—O. XV

ORDER XV

DEFAULT OF PLEADING

Default of
plaintiff
in deliver-
ing state-
ment of
claim.

1. If the plaintiff, being bound to deliver a statement of claim, does not deliver the same within the time allowed for that purpose, the defendant may, at the expiration of that time, apply to the Court or a Judge to dismiss the action with costs, for want of prosecution; and on the hearing of such application the Court or Judge may, if no statement of claim shall have been delivered, order the action to be dismissed accordingly, or may make such other order on such terms as the Court or Judge shall think just.

Defendant
in default.

2. (1) If the defendant makes default in delivering a defence, the plaintiff may, subject to the provision of rule 7 of this Order (relating to service of notice on defendant), set down the action on motion for judgment before a Judge and such judgment shall be given as upon the statement of claim the Court shall consider the plaintiff to be entitled to.

(2) Where in any such action there are several defendants, then, if one of such defendants make such default as aforesaid, the plaintiff may either (if the cause of action is severable) set down the action at once on motion for judgment against the defendant so making default, or may set it down against him at the time when it is entered for trial or set down on motion for judgment against the other defendants.

Close of
pleadings
on default.

3. Subject to the provisions as to disposal of the action on grounds of law, on admissions or otherwise, if the plaintiff does not deliver a reply or any party does not deliver any subsequent pleading within the period allowed for that purpose, the pleadings shall be deemed to be closed at the expiration of that period, and all the material statements of fact in the pleading last delivered shall be deemed to have been denied and put in issue.

Reply to
counter-
claim.

4. The provisions of the preceding rule shall not apply to a reply to a counterclaim and, unless the plaintiff delivers a reply to a counterclaim, the statements of fact contained in such counterclaim shall at the expiration of fourteen days from the delivery thereof or of such time (if any) as may by order be allowed for delivery of a reply thereto be deemed to be admitted, but the Court or a Judge may at any subsequent time give leave to the plaintiff to deliver a reply.

Default of
third
party.

5. In any case in which issues arise in an action other than between plaintiff and defendant, if any party to any such issue makes default in delivering any pleading, the opposite party may apply to the Court or a Judge for such judgment, if any, as he may appear to be entitled to upon the pleadings, and the Court or Judge may give judgment accordingly, or may make such other order as may be necessary to do complete justice between the parties.

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6. Any judgment by default or on ex parte hearing whether under this or any other Order, may be set aside by the Court or a Judge, upon such terms as to costs or otherwise as such Court or Judge may think fit, and where an action has been set down on motion for judgment under rule 2 of this Order, such setting down may be dealt with by the Court or a Judge in the same way as if judgment by default had been signed when the case was set down.

Setting aside judgment by default, or the setting down hereunder.

7. No motion for final judgment in default of defence shall be filed unless notice in writing has been served upon the defendant calling upon him to remedy his default within fourteen days after service of such notice. A copy of such notice shall be filed in the Registry immediately after service thereof with an indorsement thereon of the time, place and particulars of the service of such notice.

Notice to defendant.

ORDER XVI

AMENDMENT OF INDORSEMENT, PLEADINGS, ETC.
GENERAL PRINCIPLES

1. Failing consent by all parties the Court or a Judge may, at any stage of the proceedings, allow either party to alter or amend his indorsement or pleadings, in such manner and on such terms as may be just, and all such amendments shall be made as may be necessary for the purpose of determining the real question in controversy between the parties.

Amendment of indorsement and pleadings.

2. An indorsement or pleading may be amended by written alterations in the copy which has been delivered, and by additions on paper to be interleaved therewith, if necessary, unless the amendments require the insertion of more than one hundred and forty-four words in any one place, or are so numerous or of such a nature that the making of them in writing would render the document difficult or inconvenient to read, in either of which cases the amendment must be made by delivering a copy of the document as amended.

Manner in which amendment is to be made.

3. (1) Whenever any indorsement or pleading is amended, the same when amended shall be marked with the date of the order, if any, under which the same is so amended and of the day on which such amendment is made, in manner following that is to say —

Date of order and date of amendment to be marked.

“Amendedday of
..... pursuant to order of
dated the day of”

(2) Whenever any indorsement or pleading is amended, such amended document shall be filed with the Registrar and a copy delivered to the opposite party within the time allowed for amending the same.

Delivery of amended pleading.

4. Clerical mistakes in judgments or orders or errors arising therein from any accidental slip or omission, may at any time be corrected by the Court or a Judge on motion or summons without an appeal.

Clerical errors.

FEDERAL SUPREME COURT (ORIGINAL JURISDICTION) RULES—O. XVII

General power to amend defect or error in proceedings.

5. The Court or a Judge may at any time, and on such terms as to costs or otherwise as the Court or a Judge may think just, amend any defect or error in any proceedings, and all necessary amendments shall be made for the purpose of determining the real question or issue raised by or depending on the proceedings.

ORDER XVII

STATED CASES

Stating questions of law.

1. The parties to any cause or matter may at any stage concur in stating the questions of law arising therein in the form of a stated case for the opinion of the Court.

Special case by order before trial.

2. If it appear to the Court or a Judge, that there is in any cause or matter a question of law, which it would be convenient to have decided before any evidence is given or any question or issue of fact is tried, or before any reference is made to a referee or an arbitrator, the Court or Judge may make an order accordingly, and may direct such question of law to be raised for the opinion of the Court, either by special case or in such other manner as the Court or Judge may deem expedient, and all such further proceedings as the decision of such question of law may render unnecessary may thereupon be stayed.

Contents of case stated.

3. The stated case shall be divided into paragraphs numbered consecutively and shall concisely state such facts and documents as may be necessary to enable the Court to decide the questions raised thereby.

Reference to documents.

4. Upon the argument of such case the Court and the parties shall be at liberty to refer to the whole contents of such documents.

Inferences from facts and documents.

5. The Court shall be at liberty to draw from the facts and documents stated in any such stated case any inference, whether of fact or law, which might have been drawn therefrom if proved at a trial.

Argument confined to facts in case.

6. No facts or documents other than those stated in the case shall be referred to upon the argument save with the consent of all parties.

Signing and filing of case stated.

7. A stated case concurred in by the parties to a proceeding shall be signed by the several parties or their advocates and filed with the Registrar. Three copies for the use of the Judges shall be left therewith.

Written agreement of parties.

8. The parties to a stated case may, if they think fit, enter into an agreement in writing that, upon the determination by the Court of the question or questions of law raised in the stated case, judgment shall be entered by the Court to any effect within its jurisdiction and with or without costs, and such agreement shall be filed with the Registrar, and execution may issue upon such judgment forthwith, unless otherwise agreed, or unless stayed on appeal.

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9. Likewise the parties may, in the presence of the Court, either themselves or by their advocates, verbally make an agreement, as to the judgment to be entered upon the determination by the Court of the questions of law raised in the stated case. Oral agreement before Court.

10. Where no such agreement is made, the plaintiff may proceed with his action, after filing the writ of summons, his statement of claim and supporting affidavits, if such have not already been filed, but the questions of law decided in the stated case shall not be reopened in the Court and the action shall proceed to its final determination upon the decision upon the law recorded after the hearing of the stated case. Procedure in absence of agreement.

11. If the plaintiff fails to proceed with the action within a period of one month from the delivery of judgment on the stated case, or within such extended period as may be allowed upon application to a Judge, the defendant may, if before the agreement to state a case was recorded he had filed a counterclaim, set down the action for hearing. Set down.

12. When a Superior Court sees fit, in terms of paragraph (2) or (3) of article 81 of the Constitution, to refer to the Court any question as to the interpretation of the Constitution, this shall be done in the form of a stated case to be settled and signed by the Judge of the Superior Court presiding in the proceedings or to whom the question is referred and filed with the Registrar by the Registrar of the Superior Court. Three copies for the use of the Judges shall be left therewith. References as to interpretation of Constitution.

Issues of Fact Without Pleadings

13. When the parties to a cause or matter are agreed as to the questions of fact to be decided between them, they may, after writ issued and before judgment, by consent and order of the Court or a Judge, proceed to the trial of any such questions of fact without formal pleading, stating such questions in the form of definite issues, and such issues may be entered for trial and tried in the same manner as any issue joined in an ordinary action, and the proceedings shall be under the control and jurisdiction of the Court or Judge, in the same way as the proceedings in an action. Hearing of questions of fact agreed upon.

14. The Court or a Judge may by consent of the parties order that, upon the findings in the affirmative or negative of such issue as in the last preceding rule mentioned, a sum of money, fixed by the parties, or to be ascertained upon a question inserted in the issue for that purpose, shall be paid by one of the parties to the other of them either with or without the costs of the cause or matter. Order for payment of sum of money.

15. Upon the finding of any such issue, as in rule 12 mentioned, judgment may be entered for the sum so agreed or ascertained as aforesaid, with or without costs, as the case may be, and execution may issue upon such judgment forthwith, unless otherwise agreed, or unless stayed by the Court or a Judge. Entry of judgment upon the finding.

16. The proceedings upon such issue, as in rule 12 mentioned, may be recorded at the instance of either party, and the judgment, whether actually recorded or not, shall have the same effect as any other judgment in a contested action. Record of proceedings.

FEDERAL SUPREME COURT (ORIGINAL JURISDICTION)
RULES—O. XVIII

ORDER XVIII

SUMMONS FOR DIRECTIONS

Summons
for direc-
tions.

1. (1) Subject to the provisions of paragraph (2) of this rule, in every action the plaintiff shall within seven days from the time when the pleadings are deemed to be closed, make application for directions in respect of any interlocutory matter on which a decision may be required. Such application shall be made by summons in these rules referred to as a summons for directions returnable in not less than fourteen days and shall be heard before a Judge in chambers.

(2) This rule shall not apply to any proceeding commenced by originating summons, but a summons for directions may be taken out by any party thereto.

Contents
of applica-
tion.

2. (1) The party applying for directions shall in his summons state the matters in respect of which he intends to ask for directions, and such matters shall, so far as is necessary and practicable, include generally the proceedings to be taken in the action and the costs of the application, and more particularly the following: Pleadings and particulars, admissions of fact or of documents, removal of hearing, the hearing of arguments on points of law, discovery and inspection of documents, interrogatories, inspection of movable and immovable property, commissions, examination of witnesses, place and date of trial.

Form 5.

(2) A summons for directions shall be in Form 5 of Appendix A with such variations as circumstances may require.

Judge to
consider
all matters
and make
orders etc.
Admissions
and agree-
ments to
be made.
Particular
matters
for con-
sideration.

3. (1) Upon the hearing of the application the Judge shall, as far as practicable, make such order as may be just as to any matters in respect of which directions are asked and shall endeavour to secure that the parties make all admissions and all agreements as to the conduct of the proceedings which ought reasonably to be made by them and may cause the order on the summons to record any admissions or agreements so made and (with a view to such special order, if any, as to costs as may be just being made at the trial) any refusal to make any admission or agreement.

(2) On the hearing of an application under this Order, the Judge, if necessary, of his own motion, may make an order:—

- (a) directing such amendment of pleadings and indorsements as are permissible under these rules;
- (b) by consent of the parties dispensing with any of the modes of proof prescribed by law for the avoidance of expense and delay;
- (c) directing the admissibility of evidence under subsection (2) of section 1 of the Evidence Act, 1938, or under rules 5 and 6 of the Federal Supreme Court (Evidence) Rules, 1958.
- (d) directing that evidence on any specified points shall be given at the hearing by affidavit;
- (e) directing that such further evidence as the parties desire to produce be adduced at the hearing;

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(f) generally providing for the speedy determination of the questions in controversy between the parties.

(3) No affidavit shall be used on the hearing of the said summons except by special order of a Judge.

4. (1) Any party to whom the summons for directions is addressed shall so far as practicable apply at the hearing of the summons for any order or directions which he may desire as to any matter capable of being dealt with on an interlocutory application in the action, and shall, not less than seven days before the hearing of the summons, serve on the other parties a notice in writing specifying those orders and directions in so far as they differ from the orders and directions asked for by the summons.

Duty to make all interlocutory applications on summons for directions.

(2) If the hearing of the summons for directions is adjourned and any party to the proceedings desires to apply at the resumed hearing for any order or directions not asked for by the summons or in any notice given under paragraph (1) of this rule, he shall, not less than seven days before the resumed hearing of the summons, serve on the other parties a notice in writing specifying those orders and directions in so far as they differ from the orders and directions asked for by the summons or in any such notice as aforesaid.

(3) Any application subsequent to the summons for directions and before judgment as to any matter capable of being dealt with on an interlocutory application in the action shall be made under the summons by two clear days' notice to the other party stating the grounds of the application; and any application by a party which might have been made at the hearing of the original summons shall, if granted on any subsequent application, be granted at the costs of the party applying unless a Judge is of the opinion that there were sufficient reasons for the application not having been made at the hearing of the original summons.

5. In any action to which rule 1 of this Order applies, if the plaintiff does not within seven days from the time when the pleadings shall be deemed to be closed take out a summons for directions under this Order, the defendant shall be at liberty to apply for an order to dismiss the action and upon such application the Judge may either dismiss the action on such terms as may be just, or may deal with such application in all respects as if it were a summons for directions under this Order.

Failure to take out summons.

ORDER XIX

DISCOVERY AND INSPECTION

1. In any cause or matter the plaintiff or defendant by leave of the Court or a Judge may deliver interrogatories in writing for the examination of the opposite parties, or any one or more of such parties, and such interrogatories when delivered shall have a note at the foot thereof stating which of such interrogatories each of such persons is required to answer: Provided that interrogatories which do not relate to any matters in question in the cause or matter shall be deemed irrelevant, notwithstanding that they might be admissible on the oral cross-examination of a witness.

Discovery by interrogatories.

FEDERAL SUPREME COURT (ORIGINAL JURISDICTION)
RULES—O. XIX

Applica-
tion for
leave to
deliver
interroga-
tories.

2. A copy of the interrogatories proposed to be delivered shall be delivered to the opposite party with the summons for leave to deliver them at least four clear days before the hearing thereof (unless in any case the Court or Judge shall think fit to dispense with this requirement), and the particular interrogatories sought to be delivered shall be submitted to and considered by the Court or Judge. In deciding upon such application, the Court or Judge shall take into account any offer, which may be made by the party sought to be interrogated, to deliver particulars, or to make admissions, or to produce documents relating to any matter in question, and leave shall be given as to such only of the interrogatories as the Court or Judge shall consider necessary either for disposing fairly of the cause or matter or for saving costs.

Costs of
interroga-
tories.

3. In adjusting the costs of the cause or matter inquiry shall at the instance of any party be made into the propriety of exhibiting such interrogatories, and if it is the opinion of the taxing officer or of the Court or Judge, either with or without an application for inquiry, that such interrogatories have been exhibited unreasonably, vexatiously, or at improper length, the costs occasioned by the said interrogatories and the answers thereto shall be paid in any event by the party in fault.

Form of
interroga-
tories.
Form 6.

4. Interrogatories shall be in Form 6 of Appendix A to these Rules with such variations as circumstances may require.

Objections
to inter-
rogatories
by answer.

5. Any objection to answering any one or more of several interrogatories on the ground that it is or they are scandalous or irrelevant, or not bona fide for the purpose of the cause or matter, or that the matters inquired into are not sufficiently material at that stage, or on any other ground, may be taken in the affidavit in answer.

Affidavit
in answer,
filing.

6. Interrogatories shall be answered by affidavit to be filed within fourteen days, or within such other time as a Judge may allow.

Form of
affidavit
in answer.
Form 7.

7. An affidavit in answer to interrogatories shall, unless otherwise ordered by a Judge, be in Form 7 in Appendix A to these Rules with such variations as circumstances may require.

Order to
answer or
answer
further.

8. If any person interrogated omits to answer, or answers insufficiently, the party interrogating may, within fourteen days after the filing of the affidavit, apply to the Court or a Judge for an order requiring him to answer, or to answer further, as the case may be, and an order may be made requiring him to answer or answer further, either by affidavit or by viva voce examination, as the Court or Judge may direct.

Applica-
tion for
discovery
of docu-
ments.

9. Any party may, without filing an affidavit, apply to the Court or a Judge for an order directing any other party to any cause or matter to make discovery on oath of the documents which are or have been in his possession or power, relating to any matter in question therein. On the hearing of such application the Court or Judge may either refuse or adjourn the same, if satisfied that such discovery is not necessary, or not necessary at that stage of the cause or matter, or make such order, either generally or limited to certain classes of documents as may, in their or his discretion, be thought fit:

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Provided that discovery shall not be ordered when and so far as the Court or Judge shall be of opinion that it is not necessary either for disposing of the action or for saving costs.

10. The affidavit to be made by any person against whom an order for discovery of documents has been made under the last preceding rule shall specify which, if any, of the documents therein mentioned he objects to produce, and it shall be in Form 8 in Appendix A to these rules with such variations as circumstances may require. Affidavit of documents.
Form 8.

11. On the hearing of any application for discovery of documents the Court or Judge in lieu of ordering an affidavit of documents to be filed may order that the party from whom discovery is sought shall deliver to the opposite party a list of the documents which are or have been in his possession, custody or power relating to the matters in question. Such list shall as nearly as may be follow the form of the affidavit in the preceding rule mentioned: Provided that the ordering of such list shall not preclude the Court or Judge from afterwards ordering the party to make and file an affidavit of documents. Power to order list of documents in lieu of affidavit.

12. It shall be lawful for the Court or a Judge, at any time during the pendency of any cause or matter, to order the production by any party thereto, upon oath, of such of the documents in his possession or power, relating to any matter in question in such cause or matter, as the Court or Judge shall think right; and the Court or Judge may deal with such documents, when produced, in such manner as shall appear just. Production of documents.

13. Every party to a cause or matter shall be entitled, at any time, by notice in writing, to give notice to any other party, in whose pleadings or affidavits or list of documents reference is made to any document, to produce such document for the inspection of the party giving such notice, or of his solicitor, and to permit him or them to take copies thereof; and any party not complying with such notice shall not afterwards be at liberty to put any such document in evidence on his behalf in such cause or matter, unless he shall satisfy the Court or a Judge that such document relates only to his own title, he being a defendant to the cause or matter, or that he had some other cause or excuse which the Court or Judge shall deem sufficient for not complying with such notice, in which case the Court or Judge may allow the same to be put in evidence on such terms as to costs and otherwise as the Court or Judge shall think fit. Inspection of documents referred to in pleadings or affidavit.

14. Notice to any party to produce any documents referred to in his pleadings or affidavits or list of documents shall be in Form 9 in Appendix A to these Rules with such variations as circumstances may require. Notice to produce.
Form 9.

15. The party to whom such notice is given shall, within seven days from the receipt of such notice, if all the documents therein referred to have been set forth by him in such affidavit or list of documents as is mentioned in rules 10 and 11 of this Order, or if any of the documents referred to in such notice have not been set forth by him in any such affidavit or list, then within fourteen days from the receipt of such notice, deliver to the party giving the same a notice stating a time within seven days from the delivery thereof at which the documents, or such of them as he does not object to produce, may Time for inspection when notice given under Rule 14.

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Form 10. be inspected at the office of his solicitor, or in the case of bankers' books or other books of account or books in constant use for the purposes of any trade or business at their usual place of custody, and stating which (if any) of the documents he objects to produce, and on what ground. Such notice shall be in Form 10 in Appendix A to these Rules, with such variations as circumstances may require.

Order for inspection. 16. (1) If the party served with notice under rule 13 of this Order omits to give such notice of a time for inspection or objects to give inspection, or offers inspection elsewhere than at the office of his solicitor, the Court or Judge may, on the application of the party desiring it, make an order for inspection in such place and in such manner as he may think fit: Provided that the order shall not be made when and so far as the Court or a Judge shall be of opinion that it is not necessary either for disposing fairly of the cause or matter or for saving costs.

(2) An application to inspect documents, except such as are referred to in the pleadings, particulars, or affidavits of the party against whom the application is made, or disclosed in his affidavit or list of documents, may be made to a Court or Judge and shall be founded upon an affidavit showing of what documents inspection is sought, that the party applying is entitled to inspect them, and that they are in the possession or power of the other party. The Court or Judge upon hearing such application may make an order for inspection but shall not make such order when and so far as the Court or Judge shall be of opinion that it is not necessary either for disposing fairly of the cause or matter or for saving costs.

Verified copies. 17. (1) Where inspection of any business books is applied for, the Court or a Judge may, if they or he shall think fit, instead of ordering inspection of the original books, order a copy of any entries therein to be furnished and verified by the affidavit of some person who has examined the copy with the original entries, and such affidavit shall state whether or not there are in the original book any and what erasures, interlineations, or alterations: Provided that notwithstanding that such copy has been supplied, the Court or a Judge may order inspection of the book from which the copy was made.

(2) Where on an application for an order for inspection privilege is claimed for any document, it shall be lawful for the Court or Judge to inspect the document for the purpose of deciding as to the validity of the claim of privilege.

Power to order discovery of particular document or class of documents. 18. The Court or a Judge may, on the application of any party to a cause or matter at any time, and whether an affidavit of documents shall or shall not have already been ordered or made, make an order requiring any other party to state by affidavit whether any particular document or documents or any class or classes of documents specified or indicated in the application, is or are, or has or have at any time been, in his possession, custody or power; and, if not then in his possession, custody, or power, when he parted with the same and what has become thereof. Such application shall be made on an affidavit stating that in the belief of the deponent the party against whom the application is made has, or has at sometime had in his possession custody or power the particular document or documents or the class or classes of documents specified or indicated in the application, and that they relate to the matters in question in the cause or matter, or to some or one of them.

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19. If the party from whom discovery of any kind or inspection is sought objects to the same, or any part thereof, the Court or a Judge may, if satisfied that the right to the discovery or inspection sought depends on the determination of any issue or question in dispute in the cause or matter, or that for any other reason it is desirable that any issue or question in dispute in the cause or matter should be determined before deciding upon the right to the discovery or inspection objected to, order that that issue or question be determined first, and reserve the question as to that discovery or inspection. Premature discovery.
20. If any party against whom an order for discovery of documents has been made files an insufficient affidavit, the party at whose instance the order was made may within fourteen days after the filing of the affidavit apply to the Court or a Judge for an order requiring him to file a further affidavit. Order to file further affidavit of documents.
21. If any party fails to comply with any order to answer interrogatories, or for discovery or inspection of documents, he shall be liable to attachment. He shall also, if a plaintiff, be liable to have his action dismissed for want of prosecution, and, if a defendant, to have his defence, if any, struck out, and to be placed in the same position as if he had not defended, and the party interrogating may apply to the Court or a Judge for an order to that effect, and an order may be made accordingly. Non-compliance with order for discovery.
22. Service of an order for interrogatories or discovery or inspection made against any party on his solicitor shall be sufficient service to found an application for an attachment for disobedience to the order. But the party against whom the application for an attachment is made may show in answer to the application that he has had no notice or knowledge of the order. Service on solicitor of order for discovery.
23. A solicitor upon whom an order against any party for interrogatories or discovery or inspection is served under the last preceding rule, who neglects without reasonable excuse to give notice thereof to his client, shall be liable to attachment. Attachment of solicitor.
24. Any party may, at the trial of a cause, matter, or issue, use in evidence any one or more of the answers or any part of an answer of the opposite party to interrogatories without putting in the others or the whole of such answer: Provided always, that in such case the Court may look at the whole of the answers, and if it shall be of opinion that any others of them are so connected with those put in that the last mentioned answers ought not to be used without them, it may direct them to be put in. Using answer to interrogatories at trial.
25. In all proceedings in which the Government of the Federation or of a Territory is a party any affidavit to be made in answer to an order for interrogatories or for discovery against such Government shall be made by such officer as the Court or a Judge may direct. Discovery against the Government.
26. This Order shall apply to infant plaintiffs and defendants, and to their next friends and guardians ad litem. Order to apply to infants.
27. The Court or a Judge may order a party seeking discovery to give security for costs. Security.

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ORDER XX

ADMISSIONS

Notice of admission of facts.

1. Any party to a cause or matter may give notice, by his pleading, or otherwise in writing, that he admits to the truth of the whole or any part of the case of any other party.

Notice to admit documents and costs of refusal or neglect to admit.

2. (1) Either party may by notice in writing call upon the other party to admit any document, saving all just exceptions; and in case of refusal or neglect to admit after such notice, the costs of proving any such document shall be paid by the party so neglecting or refusing, whatever the result of the cause or matter may be, unless at the trial or hearing the Court or a Judge rules that the refusal to admit was reasonable; and no costs of proving any document shall be allowed unless such notice is given, except where the omission to give notice is, in the opinion of the taxing officer, a saving of expense.

Form of notice to admit documents.
Form 11.
Notice to admit facts.

(2) A notice to admit documents shall be in Form 11 of Appendix A to these Rules with such variations as circumstances may require.

3. (1) Any party may, by notice in writing, at any time not later than five days before the day for which notice of trial has been given, call on any other party to admit, for the purposes of the cause, matter, or issue only, any specific fact or facts mentioned in such notice.

Form of notice to admit facts.
Form 12.

(2) A notice to admit facts shall be in Form 12 of Appendix A to these Rules with such variations as circumstances may require.

Form of admission of facts.
Form 13.

(3) Admission of facts pursuant to a notice under this rule shall be in Form 13 of Appendix A to these Rules with such variations as circumstances may require.

Costs of refusal or neglect to admit.

4. In case of refusal or neglect to admit the same before the hearing the Court or a Judge shall order that the costs of proving such fact or facts shall be paid by the party so neglecting or refusing, whatever the result of the cause, matter, or issue may be, unless at the trial or hearing the Court or a Judge is satisfied that the refusal to admit was reasonable, or unless the Court or a Judge shall at any time otherwise order or direct.

Admission limited to particular cause or matter.

5. Any admission made in pursuance of such notice is to be deemed to be made only for the purposes of the particular cause, matter or issue, and not as an admission to be used against the party on any other occasion or in favour of any person other than the party giving the notice.

Amendment of admission.

6. The Court or a Judge may at any time allow any party to amend or withdraw any admission so made on such terms as may be just.

Judgment or order upon admissions of facts.

7. Any party may at any stage of a cause or matter, where admissions of fact have been made, either on the pleadings, or otherwise, apply to the Court or a Judge for such judgment or order as upon such admissions he may be entitled to, without waiting for the determination of any other

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question between the parties; and the Court or a Judge may upon such application make such order, or give such judgment, as the Court or Judge may think just.

8. An affidavit of the legal representative of the due signature of any admissions made in pursuance of any notice to admit documents or facts, shall be sufficient evidence of such admissions, if evidence thereof be required. *Affidavit of signature to admissions.*

9. An affidavit of the legal representative of the service of any notice to admit or produce, and of the time when it was served, with a copy of the notice to admit or produce, shall in all cases be sufficient evidence of the service of the said notice, and of the time when it was served. *Affidavit of service.*

10. If a notice to admit or produce comprises documents which are not necessary, the costs occasioned thereby shall be borne by the party giving such notice. *Costs of notice where documents unnecessary.*

ORDER XXI

ISSUES, INQUIRIES AND ACCOUNTS

1. Where in any cause or matter it appears to the Court or a Judge that the issues of fact in dispute are not sufficiently defined, the parties may be directed to prepare issues and such issues shall, if the parties differ, be settled by the Court or a Judge. *Issues may be prepared and settled.*

2. The Court or a Judge may, at any stage of the proceedings in a cause or matter, direct any necessary inquiries or accounts to be made or taken, notwithstanding that it may appear that there is some special or further relief sought or some special issue to be tried, as to which it may be proper that the cause or matter should proceed in the ordinary manner. *Inquiries and accounts when directed.*

3. The Court, by its order, may limit the time within which the accounts ordered are to be furnished. *Time for furnishing account.*

4. The Court or a Judge may, either by the judgment or order directing an account to be taken or by any subsequent order, give special directions with regard to the mode in which the account is to be taken or vouched, and in particular may direct that in taking the account, the books of account in which the accounts in question have been kept shall be taken as prima facie evidence of the truth of the matters therein contained with liberty to the parties interested to take such objections thereto as they may be advised. *Special directions as to be mode of taking account.*

5. Where any account is directed to be taken, the accounting party, unless the Court or a Judge shall otherwise direct, shall make out his account and verify the same by affidavit. The items on each side of the account shall be numbered consecutively, and the account shall be referred to by the affidavit as an exhibit and shall be filed in the Registry within the time limited by the order, or if no time be limited, within twenty-eight days of the date of the order. The accounting party shall forthwith give notice of the filing of the account to the opposite party. *Accounts to be verified by affidavit.*

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Mode of
vouching
accounts.

6. Upon the taking of any account the Court or a Judge may direct that the vouchers shall be produced at the office of the solicitor of the accounting party, or at any other convenient place, and that only such items as may be contested or surcharged shall be brought before the Judge in chambers.

Surcharg-
ing and
falsifying.

7. Any party seeking to charge any accounting party beyond what he has by his account admitted to have received, or to strike out or reduce any items for which he has taken credit, shall within twenty-eight days after notice has been given of the account having been filed, give notice thereof to the accounting party, and file with the Registrar a copy of such notice, stating so far as he is able, the amounts sought to be charged and reduced respectively and the particulars thereof in a short and succinct manner. If no notice is given or filed the correctness of the accounts shall be deemed to be admitted.

Answer by
accounting
party.

8. The accounting party may, within fourteen days after receiving notice of the objections, file an answer and deliver a copy thereof to the opposite party in which answer he shall state, in a short and succinct manner, how far he admits or does not admit the objections to his account. If he does not file and deliver a copy of such answer within fourteen days, or such further period, if any, as the Court or a Judge may allow, he shall be deemed to have admitted all the objections.

Time to be
fixed for
considera-
tion of
accounts
and
objections.

9. After the filing of the notice of objections and the answer thereto, or after the time limited for so doing has expired, as the case may be, the documents shall forthwith be laid by the Registrar before a Judge, who shall fix a time for the consideration of the accounts and the objections thereto.

Determina-
tion of
objections.

10. At the time so fixed the parties shall appear before the Judge, who, after hearing the parties or such of them as shall attend, and considering any evidence adduced by them, shall settle all questions of law or fact raised by the objections to the account. The party objecting to the account shall not, except by leave of the Judge, be permitted to raise any objections to the account other than those stated in his notice of objections.

Settlement
of account.

11. When all questions of law and fact have been decided by the Judge, he may either settle and adjust the accounts himself, or in any case in which it shall appear to him to be necessary or desirable to do so, direct that the accounts be referred to an accountant or other person in order that the account between the parties may be adjusted and settled in accordance with his findings, and may limit a time within which the account shall be so adjusted and settled.

Deposit for
remunera-
tion of
accountant.

12. Before any such order is made for an accountant or any other person the Judge shall fix the amount of remuneration to be paid to the accountant or any other person and the amount so fixed shall be deposited in Court by the party applying for an account in the first instance and shall be costs in the cause.

Form of
account.

13. The account as adjusted and settled shall show what sum (if any) is due from any party to any other party; and when settled by the accountant shall be deposited in the Registry within the time so limited, unless such time be extended by the Judge.

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14. When the account as finally settled has been deposited in the Registry, or has been settled by the Judge, the Registrar shall forthwith notify the respective parties thereof. Deposit of account to be notified.
15. Any party may, within fourteen days after receiving notice from the Registrar, apply to the Court or a Judge for the judgment to which he considers that he is entitled. Application for judgment.
16. Every judgment or order for a general account of the estate of a testator or intestate shall contain a direction for an inquiry what parts (if any) of such estate are outstanding or undisposed of, unless the Court or a Judge shall otherwise direct. Inquiry as to outstanding estate.
17. Where by any judgment or order, whether delivered or made in Court or in Chambers, any accounts are directed to be taken or inquiries to be made, each such direction shall be numbered so that, as far as may be, each distinct account and inquiry may be designated by a number. Accounts and inquiries to be numbered.
18. In taking any account directed by any judgment or order all just allowances shall be made without any direction for that purpose. Just allowances.
19. The costs of the proceedings, unless the Judge before whom the parties have appeared shall otherwise order, shall be costs in the cause. Costs.

ORDER XXII

ENTRY FOR HEARING OR TRIAL

1. (1) When a cause or matter has become ripe for hearing it shall be the duty of the plaintiff or other party in the position of plaintiff to file a request for hearing within six weeks thereafter. Request for hearing by plaintiff.
- (2) A request for hearing shall be in Form 14 in Appendix A to these Rules with such variations as circumstances may require. Form 14.
2. If the plaintiff or other party as aforesaid does not within the time prescribed under the preceding rule file a request for hearing, the defendant may file such request or may apply to the Court or a Judge to dismiss the cause or matter for want of prosecution, and on the hearing of such application the Court or Judge may order the cause or matter to be dismissed accordingly, or may make such other order, and on such terms, as to the Court or Judge may seem just. Request for hearing by defendant. Application to dismiss for want of prosecution.
3. (1) Subject as hereinafter provided a cause or matter shall be ripe for hearing when — When cause or matter ripe for hearing.
- (a) the defendant is in default of appearance or has failed to deliver a defence and the plaintiff has complied with the provisions of Order VII or Order XV as the case may be;
 - (b) the pleadings have been closed by the delivery of a reply or if no reply has been delivered after the time for delivery or a reply has expired;

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(c) subject to the provision of paragraph (2) of this rule an order has been made under any Order giving directions as to the trial of the cause or matter.

(2) If there are any interlocutory proceedings pending, a cause or matter shall not become ripe for hearing until the determination of such proceedings unless the Court or a Judge otherwise orders.

Papers for
the Court.

4. (1) The party filing a request for hearing shall at the same time deliver to the Registrar three complete copies of the whole of the pleadings for the use of the Court or the Judges.

(2) A party shall, when filing a pleading after an action has been entered for hearing, also deliver three copies thereof, for the use of the Judges.

(3) If any party fails to comply with the provisions of this rule the Court or a Judge may make such order as to the hearing or determination of the cause or matter or as to costs or otherwise as the Court or Judge may think fit.

Notice of
filing.

5. The party filing a request for hearing shall forthwith give notice thereof in writing to all other parties in the cause or matter but defendants or third parties who have not entered shall not be entitled to such notice.

Hearing
List.

6. The Registrar shall, on the day on which a request for hearing has been filed, enter the cause or matter on the Hearing List and such entry shall be made in the order in which each request is filed.

When
cause or
matter
deserted.

7. (1) A cause or matter shall be deemed deserted if no request for hearing shall be filed within six months after the expiration of the period fixed for the filing of such request.

(2) When an action has been deemed deserted, no further proceedings may be taken therein, unless and until an order for revivor has been made by the Court or a Judge on the application of any party or a consent to revivor and a request for hearing signed by all the parties thereto have been filed.

(3) No order for or consent to revivor shall avail as an advantage to the plaintiff in respect of the period of limitation applicable to the cause of action.

When
cause or
matter
abandoned.

8. (1) A cause or matter shall be deemed altogether abandoned and incapable of being revived if prior to the filing of a request for hearing or consent to judgment or the obtaining of judgment —

- (a) any party has failed to take any proceeding or file any document therein for one year from the date of the last proceeding had or the filing of the last document therein; or
- (b) no application for or consent to revivor has been filed within six months after the cause or matter has been deemed deserted; or

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- (c) if the cause or matter has not, on the request of any party, been entered on the Hearing List within six months from the date of any order of revivor.

(2) The instituting of a cause or matter which has been deemed altogether abandoned shall be of no effect in interrupting any period of limitation.

9. The Registrar shall, under the direction of the Court, appoint the days on which the actions appearing on the Hearing List shall be heard by the Court, and notice of the days so appointed shall be published and exhibited in such manner and in such place as the Court may direct. Date of hearing.

10. It shall not be competent for the parties to postpone by consent the hearing of any action which has been fixed for hearing; but the Court or a Judge may, if the Court or Judge think it expedient in the interests of justice, postpone or adjourn the hearing for such time and upon such terms, if any, as the Court or Judge shall think fit. Postponement of hearing.

11. It shall be the duty of all parties to any cause or matter entered for hearing to furnish without delay to the Registrar all available information relating to any settlement, or likelihood of settlement, of the cause or matter, or affecting the estimated length of the trial. Information to Registrar of settlement, etc.

ORDER XXIII

TRIAL, JUDGMENT AND ORDERS

Proceedings at Trial

1. If when a trial is called on, neither party appears, the Court may direct that the action be struck off the hearing list, and such action shall not be capable of being further proceeded with except by leave of the Court or a Judge. Absence of parties.

2. If, when a trial is called on, the plaintiff appears, and the defendant does not appear, then the plaintiff may prove his claim, so far as the burden of proof lies upon him. Default of appearance by defendant at trial.

3. If, when a trial is called on, the defendant appears, and the plaintiff does not appear; the defendant, if he has no counterclaim, shall be entitled to judgment dismissing the action, but if he has a counterclaim, then he may prove such counterclaim so far as the burden of proof lies upon him. Default of appearance by plaintiff.

4. Any judgment obtained where one party does not appear at the trial may be set aside by the Court or a Judge upon such terms as may seem fit, upon an application made within fourteen days after the trial. Judgment by default may be set aside on terms.

5. The Judge may, if he think it expedient for the interests of justice, postpone or adjourn a trial for such time, and to such place, and upon such terms, if any, as he shall think fit. Adjournment of trial.

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Disallow-
ance of
vexatious
questions
in cross-
examina-
tion.

6. The Judge may in all cases disallow any questions put in cross-examination of any party or other witness which may appear to him to be vexatious, and not relevant to any matter proper to be inquired into in the cause or matter.

Judgment
to be
entered at
or after
trial.

7. The Judge shall, at or after trial, direct judgment to be entered as he shall think right, and no motion for judgment shall be necessary in order to obtain such judgment.

Times of
commence-
ment and
termina-
tion of
trial.

8. The Registrar, or other proper officer present at any hearing or trial, shall make a note of the times at which such hearing or trial shall commence and terminate respectively, and the time actually occupied thereby on each day on which the same shall take place, for communication to the taxing officer if required.

Judgments and Orders

Minute of
judgment
or order.

9. A minute of every judgment or order shall be made by the Registrar.

Drawing
up judg-
ment or
order.

10. (1) All judgments and all orders shall be prepared by the Registrar, unless the Court or a Judge shall otherwise order.

(2) The draft of any judgment prepared by the Registrar shall be delivered to the party entitled to the same which shall be returned by him to the Registrar within seven days with a note containing his approval or any observations he has to make thereon.

(3) The Registrar may require any of the parties to attend on him in order to settle the judgment and may refer any difficulty in settling the same for the directions of a Judge in chambers.

(4) Every judgment when drawn up shall be dated as of the day when such judgment is pronounced or order made, unless the Court or a Judge shall otherwise direct, and shall take effect from that date: Provided that by special leave of the Court or a Judge a judgment may be ante-dated or post-dated.

(5) After the draft has been settled by the Registrar the judgment or order shall be signed, sealed and filed by him and the date of such filing shall be entered on the judgment or order as the date of entry.

(6) Every judgment or order shall, unless otherwise ordered, be drawn up and entered within fourteen days from the date thereof.

Settling
and pass-
ing judg-
ment or
order
without
notice.

11. (1) Notwithstanding the preceding rules of this Order the Registrar shall be at liberty, in any case in which he may think it expedient so to do, to draw, settle or pass the judgment, without notice to any party.

(2) If any judgment shall not have been drawn up and lodged within the time limited by these Rules the Registrar may report to the Judge in writing as to the reason why the provisions of these Rules in that respect

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have not been complied with, and whether in his opinion any and which of the parties or their solicitors are responsible for the delay, and thereupon the Judge may direct such parties or their solicitors to attend before him and may, unless a satisfactory explanation be forthcoming, make such order as to the payment of all or any part of the costs of drawing up and entering the judgment as he shall think fit. He may also direct that the judgment shall be deemed to have been entered when the same would have been entered in accordance with these Rules, but for such delay.

12.(1) Where an order has been made not embodying any special terms, nor including any special directions, but simply enlarging time for taking any proceeding or doing any act or giving leave — What orders need not be drawn up.

- (a) for the issue of any writ other than a writ of attachment,
- (b) for the amendment of any writ or pleadings,
- (c) for the filing of any document, or
- (d) for any act to be done by any officer of the Court other than a solicitor,

it shall not be necessary to draw up such order unless the Court or a Judge shall otherwise direct; but the production of a note or memorandum of such order, signed by a Judge or the Registrar, shall be sufficient authority for such enlargement of time, issue, amendment, filing, or other act. A direction that the costs of such order shall be costs in any cause or matter shall not be deemed a special direction within the meaning of this rule. The solicitor of the person on whose application such order is made shall forthwith give notice in writing thereof to such person (if any) as would, if this rule had not been made, have been required to be served with such order.

(2) Subject to the provisions of sub-rule (1) of this rule when any pleading or other document is tendered for filing in pursuance of an order made by the Court or a Judge, it shall not be accepted for filing unless such order has been drawn up and entered.

13. Every judgment or order made in any cause or matter requiring any person to do an act thereby ordered shall state the time, or the time after service of the judgment or order within which the act is to be done, and upon the copy of the judgment or order which shall be served upon the person required to obey the same there shall be indorsed a memorandum in the words or to the effect following — Time to be stated for doing any act ordered to be done.

“If you, the within-named A.B., neglect to obey this judgment (or order) by the time therein limited, you will be liable to process of execution for the purpose of compelling you to obey the same judgment (or order).”

14. Where any judgment directs the payment of money, the Court may for any sufficient reason, order that the same be paid by instalments with or without interest. Such order may be made at the time of giving judgment or at any time afterwards, and may be rescinded upon sufficient cause at any time. Payment by instalments.

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- Interest. 15. Upon all debts or sums certain, payable by virtue of a written instrument at a certain time, the Court, shall, unless it sees good reason to the contrary, allow interest from the time when such debts or sums are due and payable provided notice in writing claiming interest has been given; or if no time of payment is specified, then from the time of demand in writing being made giving notice to the debtor that interest will be claimed from the date of such demand.
- Assessment of damages. 16. The Court may give judgment condemning either party in costs, losses, damages and expenses, and afterwards assess the amount upon evidence directed to the ascertainment thereof, or by consent of the parties the amount may be ascertained by an arbitrator or otherwise.
- Damages in respect of continuing cause of action. 17. Where damages are to be assessed in respect of any continuing cause of action, they shall be assessed down to the time of the assessment.
- Judgment to be definite. 18. In every case where the evidence upon the hearing has been closed, if some material issue is in the opinion of the Court unproved, so that a judgment could not be given upon such issue in favour of the party on whom the proof thereof lies, the Court shall not give a judgment of non-suit, but in all such cases give a definite judgment in accordance with the evidence and the incidence of the onus of proof.
- Effect of judgment by default. 19. Subject to particular rules any judgment by default, unless the Court otherwise directs, shall have the effect of a judgment upon the merits for the plaintiff.
- Payment of costs. 20. Whenever costs are ordered to be paid, such costs shall be paid before any fresh proceedings are taken in respect of the same cause of action and any action commenced before such costs have been fully paid may be stayed by order of the Court or a Judge.
- Judgment by consent. 21. A defendant may, at any time after the service upon him of the writ of summons, consent to judgment either for the whole or any part of the plaintiff's claim. Such consent if not given before the Court or Judge shall be in writing and signed by the defendant, his solicitor or counsel; and if signed by the defendant alone shall be so signed in the presence of the Registrar, and no order for entering judgment shall be made by consent unless the requirements of this rule have been satisfied.
- Consent to be filed. 22. Every consent in writing shall be filed in the Registry and the Court or Judge shall, unless it or he sees good reason to the contrary, give judgment in terms of such consent.
- Judgment by consent. Counter-claim. 23. The provisions of the two preceding rules shall apply, mutatis mutandis, where a plaintiff consents to judgment for the whole or any part of a counterclaim.
- Entry of satisfaction. 24. Whenever a judgment shall be satisfied, if an application be made by the plaintiff and the defendant to the Registrar in a summary way, an entry of satisfaction shall be made on the original judgment by the Registrar

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at the cost of the defendant. If the plaintiff refuse or neglect to join in having such entry made, the defendant may apply by summons to the Court or a Judge for an order to have such entry made.

ORDER XXIV

EXHIBITS

1. (1) The Registrar shall take charge of every document or object put in as an exhibit during the trial of an action, and shall mark or label every exhibit with a letter or letters indicating the party by whom the exhibit is put in (or where more convenient the witness by whom the exhibit is proved) and with a number, so that all the exhibits put in by a party (or proved by a witness) are numbered in one consecutive series. List of exhibits.

(2) The Registrar shall cause a list of all the exhibits in the action to be made.

(3) The list of exhibits when completed shall be attached to the proceedings and shall form part of the record of the action.

(4) For the purpose of this Order a bundle of documents may be treated and counted as one exhibit.

(5) In this rule a witness by whom an exhibit is proved includes a witness in the course of whose evidence the exhibit is put in.

2. Exhibits in an action shall be kept in the custody of the Registrar until the expiration of the time for appealing against any judgment or order in the action, and if at the expiration of such time an appeal against such judgment or order is pending, then until the final determination of such appeal, after which date the Registrar shall, unless otherwise ordered by the Court or a Judge, return such exhibits on demand to the respective parties on whose behalf they were put in: Provided that if he is satisfied that it is expedient to do so the Registrar may return an exhibit to a party on whose behalf it was put in at any earlier time on his taking, so far as is practicable, regard being had to the nature of the exhibit, a copy of the same, or of the relevant parts of the same, and obtaining an undertaking in writing from such party that he will keep the exhibit duly marked and labelled as before and, in the event of an appeal, produce it so marked and labelled at the hearing of the appeal in case he is required by the appellate tribunal so to do. Custody of exhibits after trial.

3. (1) Any party may apply for and on payment of the prescribed fee obtain an office copy of the list of exhibits for the purpose of an appeal. Office copy of list of exhibits.

(2) Where there is an appeal, the appellant shall include an office copy of the list of exhibits amongst the documents supplied to the proper officer of the appellate Court for the purpose of the appeal.

ORDER XXV

EXECUTION

1. (1) The process for the execution of any judgment shall be by writ signed by the Registrar and addressed to the Sheriff or his lawful deputy. Execution to be by writ.

(2) A writ of execution shall be in Form 15 of Appendix A to these Rules with such variations as circumstances may require. Form 15.

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Writ in-
valid if
wrong
person
named
therein.

2. Any such process shall be invalid if a wrong person is named therein as a party, but no such process shall be invalid merely by reason of the misspelling of name therein or by error as to date.

ORDER XXVI

SECURITY FOR COSTS

Security
for costs

1. (1) A plaintiff ordinarily resident outside the Federation may be ordered to give security for costs notwithstanding that he may be temporarily resident within the Federation.

(2) A defendant setting up a counterclaim not arising out of the applicant's claim may be ordered to give security for costs in like manner as an applicant making the claim might be so ordered.

(3) When security for costs is required or ordered the security shall be of such amount, and be given at such time and in such manner or form, as the Court or a Judge directs.

(4) Where a bond is to be given as security for costs, it shall, unless the Court or a Judge otherwise directs, be given to the Registrar of the Court.

(5) Nothing in this Order shall be deemed to deprive the Court of any power which it would otherwise have to order any party to give security for costs.

ORDER XXVII

TRANSFER AND CONSOLIDATION OF ACTIONS

Power of
one Judge
to hear
cause or
matter for
another.

1. A Judge may, at the request or with the consent of any other Judge before whom a cause or matter is pending, hear such cause or matter or any application therein, and for that purpose it shall not be necessary that any order for transfer shall be made or consent of the parties obtained.

Consolida-
tion of
causes or
matters.

2. If it be established to the satisfaction of the Court or a Judge that it will be convenient or that time or costs will be saved, the Court or a Judge may, on the application of any party, direct that two or more actions be consolidated and heard together; or where it appears that the legal liability of several defendants to separate actions will be decided by the judgment to be given in any one of such actions, the Court or a Judge may direct that further proceedings in all of such actions, save one, may be stayed until final judgment be given in the action which proceeds, on such terms as to the defendants to the actions which are stayed consenting to be bound, so far as their legal liability is concerned, by such judgment, or otherwise as to the Court or Judge shall seem just.

ORDER XXVIII

MOTIONS AND OTHER APPLICATIONS

Applica-
tion by
motion.

1. Where by these Rules any application is authorised to be made to the Court or a Judge, such application shall be made by motion in Court, unless under Order XXIX or any other Order, the application may be on summons in chambers.

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2. Except where by rules of Court it is provided that an order may be made absolute ex parte in the first instance, and except where a motion or application to show cause only may be made, no motion shall be made without previous notice to the parties affected thereby. But the Court or a Judge, if satisfied that the delay caused by proceeding in the ordinary way would or might entail irreparable or serious mischief, may make any order ex parte upon such terms as to costs or otherwise, and subject to such undertaking, if any, as the Court or Judge may think just; and any party affected by such order may move to set it aside. Where notice of motion to be given.
3. Unless the Court or a Judge give special leave to the contrary there must be at least four clear days between the service of a notice of motion and the day named in the notice for hearing the motion. Length of notice of motion.
4. If on the hearing of a motion or other application the Court or a Judge shall be of opinion that any person to whom notice has not been given ought to have or to have had such notice, the Court or Judge may either dismiss the motion or application, or adjourn the hearing thereof, in order that such notice may be given, upon such terms, if any, as the Court or Judge may think fit to impose. Motions may be adjourned or dismissed where necessary notice not given.
5. The hearing of any motion or application may from time to time be adjourned upon such terms, if any, as the Court or Judge may think fit. Adjournment of hearing.
6. The plaintiff shall, without any special leave, be at liberty to serve any notice of motion or other notice or any petition or summons upon any defendant, who, having been duly served with a writ of summons to appear, has not appeared within the time limited for that purpose. Service of notice on defendant served with writ, but not appearing.
7. The plaintiff may, by leave of the Court or a Judge to be obtained ex parte, serve any notice of motion upon any defendant, along with a writ of summons or at any time after service of the writ of summons and before the time limited for the appearance of such defendant. Service of notice of motion with writ.
8. A notice of motion shall be in Form 16 of Appendix A of these rules with such variations as circumstances may require. Form of notice of motion, Form 16.

ORDER XXIX

APPLICATIONS AND PROCEEDINGS IN CHAMBERS — SUMMONSES

1. The business to be disposed of in chambers by the Judge shall consist of the following matters, in addition to the matters which under any other rule or by any law of the Federal Legislature or statute may be disposed of in chambers:— Business in chambers.

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(1) applications

- (a) for payment or transfer to any person of any cash or securities standing to the credit of any cause or matter where there has been a judgment or order declaring the rights or where the title depends only upon proof of the identity or the birth, marriage or death of any person;
- (b) for payment or transfer to any person of any cash or securities standing to the credit of any cause or matter or for the distribution of any moneys paid into Court under any law;
- (c) for payment to any person of the dividend or interest on any securities standing to the credit of any cause or matter, whether to a separate account or otherwise;
- (d) for the investment of any funds paid into Court under any law or Order of the Court;
- (e) for or relating to the sale by auction or private contract of property, and as to the manner in which the sale is to be conducted, and for payment into Court and investment of the purchase money;
- (f) for the review of taxing officer's decision;
- (g) for time to plead, for leave to amend pleadings, for discovery and production of documents, and generally all applications relating to the conduct of any cause or matter;

(2) proceedings under Order XXI;

(3) such other matters as the Judge may think fit to dispose of at chambers.

Applica-
tions to be
by sum-
mons.

2. (1) Every application at chambers not made ex parte shall be made by summons.

Form of
summons.
Form 17.

(2) A summons shall be in Form 17 of Appendix A of these Rules with such variations as circumstances may require.

Ex parte
applica-
tions.

(3) Ex parte applications shall be made upon affidavit alone except in cases where the application is for payment or transfer out of court made ex parte and every other application made ex parte in which the Judge shall think fit so to require shall be made by summons.

Service of
summons.

3. Every summons, not being an originating summons to which an appearance is required to be entered, shall be served four clear days before the return thereof, unless in any case it shall be otherwise ordered; Provided that in case of summonses for time only, the summons may be served on the day previous to the return thereof.

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4. Where any of the parties to a summons fail to attend, whether upon the return of the summons, or at any time appointed for the consideration or further consideration of the matter, the Judge may proceed *ex parte*, if, considering the nature of the case, he think it expedient so to do; no affidavit of non-attendance shall be required or allowed, but the Judge may require such evidence of service as he may think just. *Proceeding ex parte where any party fails to attend.*

5. Where the Judge has proceeded *ex parte*, such proceedings shall not in any manner be reconsidered in the Judge's chambers, unless the Judge shall be satisfied that the party failing to attend was not guilty of wilful delay or negligence; and in such case the costs occasioned by his non-attendance shall be in the discretion of the Judge, who may fix the same at the time, and direct them to be paid by the party or his solicitor before he shall be permitted to have such proceeding reconsidered, or make such other order as to such costs as he may think just. *Re-consideration of ex parte proceedings.*

6. Where a proceeding in chambers fails by reason of the non-attendance of any party, and the Judge does not think it expedient to proceed *ex parte*, the Judge may order such an amount of costs (if any) as he shall think reasonable to be paid to the party attending by the absent party or by his solicitor personally. *Costs thrown away by non-attendance of any party.*

7. Where matters in respect of which summonses have been issued are not disposed of upon the return of the summons, the parties shall attend from time to time without further summons, at such time or times as may be appointed for the consideration or further consideration of the matter. *Further attendance where summons not fully disposed of.*

8. In every cause or matter where any party thereto makes any application at chambers, either by way of summons or otherwise, he shall be at liberty to include in one and the same application all matters upon which he then desires the order or directions of the Judge; and upon the hearing of such application it shall be lawful for the Judge to make any order and give any directions relative to or consequential on the matter of such application as may be just. *What matters to be included in same summons.*

9. Any application may, if the Judge thinks fit, be adjourned from Chambers into Court or from Court into Chambers. *Adjournment into Court, or into Chambers.*

10. In any cause or matter on the application of any party thereto, any Judge may, and, if the circumstances require it, shall hear and dispose of any application therein on behalf of any other Judge by whom the application would otherwise have been heard. *Disposal of business by one Judge for another.*

11. A summons in all cases of applications originating in chambers, or an originating summons, shall be prepared by the applicant or his solicitor, and shall be sealed in the Registry, and when so sealed shall be filed and shall then be deemed to be issued. The person presenting the summons to be filed shall leave at the Registry a copy or copies thereof, as the case may be, for service which shall be certified by the Registrar and sealed with the seal of the Court. *Issue of summons.*

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Power to direct hearing in Court.

12. A Judge in Chambers if he thinks it desirable that any summons, appeal or application owing to its importance or the length of time likely to be occupied or for any other reason should be heard in Court may direct that the same be so heard or may adjourn the same to be so heard: provided that any decision in Court on any summons, appeal or application shall be deemed to be a decision at chambers.

Form of Order.
Form 18.

13. An order made upon a summons shall be in Form 18 of Appendix A to these Rules with such variations as circumstances may require. It shall be sealed and marked with the name of the Judge by whom it was made.

Appeals from chambers.

14. (1) An appeal from the decision of a Judge in Chambers in any interlocutory matter shall lie to the Court which shall consist of two or more judges.

(2) Every appeal to the Court under this rule shall be by motion and shall be made within eight days of the decision appealed against or such further time as may be allowed by the Court.

(3) The notice of motion shall be served two clear days before the day named in the notice for hearing.

ORDER XXX

APPLICATIONS ON ORIGINATING SUMMONS

Construction of deed, etc.

1. Any person claiming to be interested under a deed, will, or other written instrument, may apply by originating summons for the determination of any question of construction arising under the instrument and for a declaration of the rights of the persons interested.

Construction of laws.

2. Any person claiming any legal or equitable right in a case where the determination of the question whether he is entitled to the right depends upon a question of construction of any law of the Federation or of a Territory, may apply by originating summons for the determination of such question of construction, and for a declaration as to the right claimed.

Service.

3. The Court or a Judge may direct such persons to be served with the summons as they or he may think fit.

Evidence.

4. The application shall be supported by such evidence as the Court or a Judge may require.

Discretion of Court.

5. The Court or a Judge shall not be bound to determine any such question of construction if in their or his opinion it ought not to be determined on originating summons.

Issue and service of originating summons.

6. (1) Where by any law or rule of Court it is provided that an application to the Court shall be made by an "originating motion" such application shall be made by originating summons or by petition.

Directions as to persons to be served.

(2) Before the issue of an originating summons not inter partes the person intending to issue the same shall apply ex parte by affidavit to a Judge in Chambers for a direction as to the persons (if any) to be served.

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(3) The provision of these Rules as to service of a writ of summons shall apply to originating summonses as far as is practicable.

7. An originating summons shall be in Forms 19, 20 or 21 of Appendix A to these Rules with such variations as circumstances may require.

Form of originating summons. Forms 19, 20 and 21.

8. The parties served with an originating summons shall, except as hereinafter provided, before they are heard, enter appearance at the Registry and give notice thereof. A party so served may appear at any time before the hearing of the summons. If he appears at any time after the time limited by the summons for appearance he shall not, unless the Court or a Judge shall otherwise order, be entitled to any further time for any purpose, than if he had appeared according to the summons.

Appearance to originating summons.

9. The day and hour for attendance under an originating summons to which an appearance is required to be entered shall after appearance be fixed by notice sealed with the seal of the Court. Such notice shall be in Form 22 of Appendix A to these Rules. The notice shall be served on the defendant or respondent by delivering a copy thereof at the address for service named in the memorandum of appearance of such defendant or respondent not less than four clear days before the return day.

Attendance under originating summons. Form 22.

ORDER XXXI

APPLICATIONS FOR MANDAMUS OR PROHIBITION

1. In this order the expression "prerogative order" means an order of mandamus or of prohibition or an order for injunction made in proceedings in lieu of information in the nature of quo warranto.

Meaning of "prerogative order".

2. Unless the Chief Justice otherwise directs proceedings for a writ or order under paragraph (1)(b) of article 80 of the Constitution shall be instituted, heard and determined in the Territory where the officer against whom the writ or order is sought holds or has held office and, in the case of an authority, where such authority exercises or performs or has exercised or performed its powers and duties.

Proceedings for mandamus or prohibition where instituted.

3. In any proceedings for a prerogative order, no order nisi, rule nisi, or summons to show cause shall be made, granted or issued.

Abolition of order nisi, rule nisi and summons to show cause.

4. (1) No application for a prerogative order shall be made unless leave therefor has been granted in accordance with this rule.

Application for mandamus, etc., not to be made without leave.

(2) An application for leave under this rule shall be made ex parte to a Judge in Chambers, and shall be accompanied by a statement setting out the name and description of the applicant, the relief sought, and the grounds on which it is sought, and by affidavits verifying the facts relied on.

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(3) Where an application for leave under this rule is refused by a Judge in Chambers, the applicant may appeal in accordance with the provisions of these Rules relating to an appeal from chambers.

Form of
statement.
Form 23.

(4) The statement referred to in paragraph (2) of this rule shall be in Form 23 of Appendix A to these Rules with such variations as circumstances may require.

Application
to be by
notice of
motion or
summons.

5. (1) When leave has been granted to apply for a prerogative order, the application shall be made to not less than two Judges, except in vacation when it may be made by summons to a Judge in Chambers, and there shall, unless the Court or Judge granting leave has otherwise directed, be at least eight clear days between the service of the notice of motion or summons and the day named therein for the hearing.

(2) Unless, within fourteen days after leave has been granted, the notice or summons is put in the list for hearing, the leave shall lapse.

(3) The notice or summons shall be served on all persons directly affected, and an affidavit giving the names and addresses of, and the place and date of service on, all persons who have been served with the notice of motion or summons shall be filed before the notice or summons is put in the list for hearing, and, if any person who ought to be served has not been served, the affidavit shall state that fact and the reason why service has not been effected, and the affidavit shall be before the Court on the hearing of the motion or summons.

(4) If on the hearing of the motion or summons the Court or Judge is of the opinion that any person who ought to have been served therewith has not been served, whether or not he is a person who ought to have been served under the foregoing provisions of this rule, the Court or Judge may adjourn the hearing, in order that the notice or summons may be served on that person, upon such terms (if any) as the Court or Judge may direct.

Form of
notice of
motion or
summons.
Forms 24a
and 24b.

(5) The notice of motion or the summons referred to in paragraph (1) of this rule shall be in Forms 24A or 24B of Appendix A to these Rules with such variations as circumstances may require.

Statements
and
affidavits.

6. (1) Copies of the statement accompanying the application for leave shall be served with the notice of motion or summons, and copies of any affidavits accompanying the application for leave shall be supplied on demand and on payment of the proper charges, and no grounds shall, subject as hereafter in this rule provided, be relied upon or any relief sought at the hearing of the motion or summons except the grounds and relief set out in the said statement.

(2) The Court or Judge may on the hearing of the motion or summons allow the said statement to be amended, and may allow further affidavits to be used if they deal with new matter arising out of the affidavits of any other party to the application, and where the applicant intends to ask to be allowed to amend his statement or use further affidavits, he shall give notice of his

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intention and of any proposed amendment of his statement, and shall supply on demand and upon payment of the proper charges copies of any further affidavits.

(3) Every party to the proceedings shall supply to any other party, on demand and on payment of the proper charges, copies of the affidavits which he proposes to use at the hearing.

7. On the hearing of any such motion or summons as aforesaid, any person who desires to be heard in opposition to the motion or summons and appears to the Court or Judge to be a proper person to be heard shall be heard, notwithstanding that he has not been served with the notice or summons, and shall be liable to costs in the discretion of the Court or Judge if the order should be made. Right to be heard in opposition.

ORDER XXXII

SERVICE OF WRITS AND OTHER DOCUMENTS

1. An address for service pursuant to Orders V and VI may be changed by any party filing with the Registrar a notice in writing stating that he has changed his address for service and appointing some other place within the prescribed distance from the Registry as his address for service, and by serving upon the opposite party a copy of such notice. Until such notice is filed and such copy is served any document served at the original address for service shall be deemed to have been duly served. Change of address for service.

2. Writs and other documents, except a warrant, may not be served on a holiday or between 8 p.m. and 6 a.m. and no such service shall be valid. Dies non

3. Personal service is required of the following documents — Documents requiring personal service.
- (1) writs of summons and originating summons;
 - (2) amended writ of summons before appearance, if amendment substantial;
 - (3) notice of writ of summons for service out of the jurisdiction;
 - (4) motions for any prerogative writ, or order and any other originating applications;
 - (5) subpoenas and all documents required to be served on any person not a party to the proceedings and not yet served with any document referred to in paragraphs (1), (2), (3) or (4) of this rule;
 - (6) any document in respect of which a Court or Judge orders personal service.

4. (1) Service of all documents (except subpoenas) requiring personal service shall be by the Sheriff except where otherwise ordered under rule 5 of this Order. Manner of personal service.

(2) Personal service shall be effected by handing to and leaving with the person to be served a copy of such document and, if asked, showing him the original or a sealed copy thereof. If the person to be served will not

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take such copy the Sheriff or person authorised to effect service shall tell him what the document contains and leave it as nearly as possible in his possession or control.

Substituted
service.

5. Where personal service of any document is ordered or otherwise required and it is made to appear to the Court or a Judge that prompt personal service cannot be effected, the Court or Judge may make such order for substituted or other service, or for the substitution of notice for service by letter, public advertisement or otherwise, as may be just. Any such order may be made on application *ex parte*.

Undertak-
ing to
accept
service.

6. No service of any writ of summons or originating summons shall be required when the defendant by his solicitor undertakes in writing to accept service, and enters an appearance.

Service on
particular
Depart-
ments.

7. (1) All documents required to be served on the Federation or on a Territory may be served on the person who may legally sue or be sued on behalf of the Federation or of a Territory having regard to the nature of the proceedings. Where such person is the Attorney General of the Federation or of a Territory, such service shall be on the Crown Solicitor if any, and if not, then on the Attorney General.

(2) All documents to be served on the Federation or on a Territory shall be treated for the purposes of these Rules as documents in respect of which personal service is not requisite.

(3) In this rule the expression "document" includes writs, notices, pleadings, orders, summonses, warrants and other documents, proceedings and written communications.

Service on
an autho-
rity of the
Federation
or of a
Territory.

8. In the absence of any statutory provision regulating the service of process, a notice of motion for a prerogative writ or order under paragraph (1) (b) of article 80 of the Constitution against an authority of the Federation or of a Territory where such authority consists of a corporation aggregate or of a body of two or more persons, may be served on the head officer, clerk or secretary of such authority.

Service
when not
personal
service.

9. All documents not required to be served personally upon a party to any proceedings may be served —

- (a) by leaving the document within the prescribed hours at the address for service and, if no address for service is given, at the office of the person to be served, or of any agent whom he has nominated for the purpose, but in either case with a person belonging to the office where the document is left, or
- (b) by posting it in a prepaid registered envelope addressed to the person to be served or any such agent as aforesaid; and where service under this rule is made by registered post the time at which the document if so posted would be delivered in the ordinary course of post shall be considered as the time of service thereof.

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10. (1) Save where otherwise provided by a law of the Federal Legislature or by rules of court, service of subpoenas and all documents not requiring personal service may be effected either by the Sheriff or by the legal representative of the party in whose interest the document is served or by any responsible person in the employ of such representative. Person by whom service to be effected and proof of service.

(2) Where service has been effected by the Sheriff, proof of service shall be by a certificate purporting to be made by the Sheriff; and where service is effected by a legal representative or his responsible employee, proof of service shall be by an affidavit made by such representative or employee.

(3) The certificate or affidavit referred to in paragraph (2) of this rule shall state when, where and how such service was effected.

11. Where no appearance has been entered for a party, or where a party or his solicitor, as the case may be, has omitted to give an address for service as required by this Order and Orders V and VI, all writs, notices, pleadings, orders, summonses, warrants and other documents, proceedings, and written communications in respect of which personal service is not requisite may be served by filing them at the registry where the proceedings were instituted. Service where no appearance or no address for service.

12. (1) Any document or communication which by any law, rule of Court or agreement of parties, is required to be served on any person may be transmitted by telegraph, and a telegraphic copy may be served in the same manner as if it were the original and service of such copy shall have the same effect as if the original had been served. Telegraphic copies.

(2) The person served with a telegraphic copy may require the person serving the document within a reasonable time after service of the telegraphic copy —

- (a) to have the original produced for his inspection and to receive a copy thereof; where the document is one requiring personal service; or
- (b) to receive the original where the document is one not requiring personal service.

(3) A Court or Judge on being satisfied that paragraph (2) of this rule has not been complied with may set aside the service of the telegraphic copy.

13. Delivery or service of pleadings, notices, summonses, orders, rules, and other proceedings and written communications effected after the hour of four in the afternoon or on Saturdays after the hour of one in the afternoon shall, for the purpose of computing any period of time subsequent to such delivery or service, be deemed to have been effected on the following day, or in the case of Saturdays, on the following Monday. Time of day for service.

14. Except in the case of an order for attachment, it shall not be necessary to the regular service of an order that the original order be shown if an office copy of it be exhibited. Showing original order on service.

FEDERAL SUPREME COURT (ORIGINAL JURISDICTION)
RULES—O. XXXIII

Service of notices from Supreme Court. 15. Notices sent from any registry or office of the Court may be sent by post; and the time at which the notice so posted would be delivered in the ordinary course of post shall be considered as the time of service thereof, and the posting thereof shall be a sufficient service.

Service upon solicitor or party formerly appearing in person. 16. Where a party after having sued or appeared in person has given notice in writing to the opposite party or his legal representative, through a legal representative, that such legal representative is authorised to act in the cause or matter on his behalf, all writs, notices, pleadings, summonses, orders, warrants, and other documents proceedings, and written communications which ought to be delivered to or served upon the party on whose behalf the notice is given shall thereafter be delivered to or served upon such legal representative.

Service upon solicitor of person not a party. 17. Where a person who is not a party appears in any proceeding either before the Court or in Chambers, service upon the solicitor or legal representative by whom such person appears in the Territory where the proceedings were instituted whether such solicitor or legal representative act as principal or agent, shall be deemed good service except in matters requiring personal service.

Indorsement on service. 18. The person serving a writ of summons shall, within three days at most after such service, indorse on the writ the day of the month and week of the service thereof, otherwise the plaintiff shall not be at liberty, in case of non-appearance, to proceed by default; and every affidavit of service and such writ shall mention the day on which such indorsement was made. This rule shall apply to substituted as well as other service.

ORDER XXXIII

FEEES OF COURT

Government of Federation or Territory exempted from payment of fees. 1. No fees shall be payable by the Federation or a Territory or any person suing or being sued on behalf of the Federation or a Territory in respect of —
(a) any civil cause or matter to which the Federation or a Territory or any person so suing or being sued is a party; or
(b) any suit instituted by or against the Federation or a Territory or any person so suing or being sued;

Provided that a judgment in favour of the Federation or a Territory or any person so suing or being sued for costs to be paid by any party, not being the Federation or a Territory or any person so suing or being sued, shall, unless the Court otherwise orders, include the amount of any fees which would have been payable if the suit had been brought or instituted by or against a private person.

Fees of Court in Appendix B. 2. Subject to the provisions of the preceding rule, the fees prescribed in Appendix B shall be charged in respect of the matters to which they are respectively assigned.

FEDERAL SUPREME COURT (ORIGINAL JURISDICTION)
RULES—O. XXXIV

ORDER XXXIV
TAXATION OF COSTS

1. The Registrar or such deputy registrar as the Registrar by general or special direction shall nominate shall be the Taxing Officer and in the taxation of costs shall pursue such instructions as may from time to time be given by the Court for that purpose.

Fees of legal practitioners, witnesses, etc.

2. (1) Subject to the provisions of this Rule, a Taxing Officer when taxing the fees for professional legal service shall —

Legal practitioners' fees.

- (a) unless the Court when awarding costs orders otherwise, allow all such costs, charges and expenses as shall appear to him to have been necessary or proper for the attainment of justice or for the defending the rights of any party, but save as against the party who incurred the same, no costs shall be allowed which appear to the Taxing Officer to have been incurred or increased through over-caution, negligence or mistake, or by payment of special fees to counsel or special charges or expenses to witnesses or other persons, or by other unusual expenses;

- (b) adhere to the Schedule of Allowances in Appendix C.

(2) In taxing party and party costs, the Taxing Officer shall also, unless the court when awarding costs orders otherwise, allow —

- (a) the reasonable fees consequent upon the engagement of counsel: Provided that he may disallow the fee of more than one counsel in unopposed matters and in matters in which counsel has not appeared on the other side;
- (b) in any matter which does not conclude upon the first day, reasonable refreshers for each day subsequent to the first;
- (c) junior counsel's fee on the basis of two-thirds of the fee allowed to leading counsel (excluding travelling expenses and any special fee allowed to leading counsel) where fees to leading and junior counsel are allowed.

(3) The Taxing Officer may in exceptional cases and for good and sufficient reason depart from any of the provisions of the Schedule of Allowances contained in Appendix C, and in particular in the taxation of solicitor and client bills of costs, where strict adherence to such provisions would be inequitable.

3. (1) Witnesses requiring payment shall be paid for their attendance and travelling in accordance with the tariff prescribed in Appendix D.

Witnesses' charges and allowances.

(2) The charges of witnesses as fixed by tariff are to be considered as payable to the witnesses by the party who summoned or produced him, and in the event of any such party being awarded his costs against any other party, the said charges shall be allowed against such other party in the taxation of costs.

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RULES—O. XXXIV

(3) Any person applying to the Registrar for the issue of a subpoena to compel the attendance of any witness shall by endorsement on such subpoena accept responsibility for the payment of all expenses due to such witness, failing which no subpoena shall issue until the expense of such witness has first been deposited with the Registrar.

(4) In the taxation of costs between party and party no amount shall be allowed for any witness whether for attendance or travelling expenses unless there is produced to the Taxing Officer proof that such amount has already been paid or tendered to or claimed by such witness.

(5) In the taxation of costs between party and party nothing shall be allowed for any witness not examined unless upon proof that his evidence might reasonably have been believed to be material and necessary.

(6) If a number of witnesses manifestly greater than was reasonably necessary has been summoned by any party there shall only be allowed against the other party the charges for such witnesses as were reasonably necessary.

(7) In the taxation of costs between party and party no amount shall be allowed for any witness in respect of personal attendance or travelling expenses if the fact or facts which such witness is subpoenaed to prove have, before the issue of such subpoena, been admitted to the party taking out the subpoena by the opposite party: Provided that such admission shall be in writing, signed by the party making it or his legal representative, as the case may be.

(8) When the same person is a witness in more cases than one heard on the same day, he shall be entitled to no more than one fee for personal attendance and one allowance for travelling expenses, which shall be equally divided between such cases.

Fees of interpreters, witnesses, etc. in Appendix D.

4. The fees to be charged for interpreters, witnesses, special commissioners and examiners shall be those set forth in Appendix D.

Taxation of costs.

5. (1) In all cases where a notice of taxation is necessary, seven days' notice together with a copy of the bill of costs shall be given by the legal practitioner of the party whose costs are to be taxed to the other party or his legal practitioner. Where the party has not appeared no copy of the bill of costs need be sent.

(2) In the taxation of costs, where the circumstances warrant the same, the notice of taxation with a copy of the bill of costs may be transmitted to the party appearing in person by registered post.

Solicitor and client costs.

6. The Taxing Officer shall, at the request of any legal practitioner or the person on whose instructions the services were rendered, tax as between solicitor and client a bill of costs for services connected with any proceedings in the Court:

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RULES—O. XXXIV

Provided that, unless the client's written consent is endorsed upon the bill of costs, the Taxing Officer shall not proceed to taxation of such bill of costs unless the client has received reasonable notice of the time and place of taxation.

7. The Taxing Officer shall have authority to arrange and direct what parties are to attend before him on the taxation of costs to be borne by a fund or estate, and to disallow the costs of any party whose attendance the Taxing Officer shall in his discretion consider unnecessary. Attendance of parties on taxation.

8. Any party who may be dissatisfied with the allowance or disallowance by the Taxing Officer, in any bill of costs taxed by him, of the whole or any part of any items, may, at any time before the certificate or allocatur is signed, or such earlier time as may in any case be fixed by the Taxing Officer, deliver to the other party interested therein, and carry in before the Taxing Officer, an objection in writing to such allowance or disallowance, specifying therein by a list, in a short and concise form the items, or parts thereof, objected to, and the grounds and reasons for such objections and may thereupon apply to the Taxing Officer to review the taxation in respect of the same. The Taxing Officer may, if he shall think fit, issue, pending the consideration of such objections, a certificate of taxation or allocatur for or on account of the remainder of the bill of costs and such further certificate or allocatur as may be necessary shall be issued by the Taxing Officer after his decision upon such objections. Objections to Taxation. Review.

9. Upon such application the Taxing Officer shall reconsider and review his taxation upon such objections, and he may, if he shall think fit, receive further evidence in respect thereof, and, if so required by either party, he shall state either in his certificate of taxation or allocatur, or by reference to such objection, the grounds and reasons of his decision thereon, and any special facts or circumstances relating thereto. The Taxing Officer may tax the costs of such objections and add them to or deduct them from any sum payable by or to any party to the taxation. Review of taxation by Taxing Officer.

10. Any party who may be dissatisfied with the certificate or allocatur of the Taxing Officer, as to any item or part of an item which may have been objected to as aforesaid, may within fourteen days from the date of the certificate or allocatur or such other time as the Court or Judge, or Taxing Officer, at the time he signs his certificate or allocatur, may allow, apply to a Judge at Chambers for an order to review the taxation as to the same item or part of an item, and the Judge may thereupon make such order as the Judge may think just; but the certificate or allocatur of the Taxing Officer shall be final and conclusive as to all matters which shall not have been objected to in manner aforesaid. Review of decision of Taxing Officer.

11. The Taxing Officer may, without filing any formal documents, submit any point arising at a taxation for decision by a Judge in Chambers, and it shall be competent for the Taxing Officer and for the legal practitioners who appeared at the taxation to appear before the Judge respecting such point. Reference to Judge in Chambers.

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RULES—O. XXXV

ORDER XXXV

SUBPOENA

Forms of
praecipe
for a
subpoena.
Form 25.

1. Where it is intended to sue out a subpoena, a praecipe for that purpose in Form 25 in Appendix A, and containing the name or firm and the place of business or residence of the solicitor intending to sue out the same, and, where such solicitor is agent only, then also the name or firm and place of business or residence of the principal solicitor, shall in all cases be delivered and filed at the Registry.

Deposit
of ex-
penses by
party.

2. Where a party is suing in person he shall at the request of the Registrar and before issue of the subpoena deposit with the Registrar such sum as the Registrar shall fix as being calculated to cover the reasonable expenses of all persons named in the subpoena.

Form of
writ of
subpoena.
Forms 26,
27 and 28.

3. A writ of subpoena shall be prepared by the party desiring to issue it and shall be in one of the Forms 26 to 28 in Appendix A, with such variations as circumstances may require.

Consent of
Judge for
subpoena
of witness
on foreign
law, etc.

4. It shall not be competent for any party to compel the attendance of any witness for the purpose of giving evidence of his opinion only on any question of foreign law, usage or custom without the consent in writing of a Judge having been first had and obtained.

Discretion
of Judge.

5. It shall be competent for any Judge on being applied to for his consent as in the preceding rule mentioned either to withhold such consent or to grant the same on such terms, as to the payment or tender of allowances to the witness and as to the amount of such allowances, as to such Judge seems fit and reasonable.

Subpoena
restricted
to four
persons.

6. Every subpoena other than a subpoena duces tecum may contain four names where necessary or required.

Subpoena
duces tecum
restricted
to three
persons.

7. No more than three persons shall be included in one subpoena duces tecum and the party suing out the same shall be at liberty to sue out a subpoena duces tecum for each person if it is necessary or desirable

Attach-
ment of
witness in
default.

8. Any person having been duly served with a subpoena a reasonable time before the date on which he is required by it to attend at the place named, and his reasonable expenses having been paid or tendered to him and not having any lawful impediment, will on his default be liable to be attached, fined and imprisoned for his contempt of the process of the Court, without prejudice to any other claim or remedy the party aggrieved by his default may by law have against him on that account.

Within
what time
subpoena
to be
served.

9. The service of any subpoena shall be of no validity if not made within twelve weeks after the teste of the writ.

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10. Every subpoena shall remain in force from the date of issue until the trial of the action or matter in which it is issued. Duration of subpoena.

ORDER XXXVI

CONTEMPT OF COURT

1. The institution by a party of proceedings for contempt of Court shall be made by notice of motion to the person against whom the contempt of Court is alleged. Proceedings for contempt by notice of motion.
2. Such notice of motion shall set forth distinctly the grounds of complaint and shall be supported by an affidavit of the facts. Contents of notice.
3. Nothing in rules 1 and 2 of this Order contained shall affect the power of the Court to deal summarily with a contempt of Court committed in its presence without any written charge or notice to the offender. Contempt in Court's presence.
4. Where the Court or a Judge has imposed a fine for contempt of Court, the Registrar shall furnish the Sheriff with the particulars of such fine and deliver to him a writ with such variations as the circumstances of the case require. Immediately on delivery of such writ the Sheriff shall execute the same in terms thereof. Writ for recovery of a fine.
5. Where the Court or a Judge orders a person to be committed to prison or imposes a sentence of imprisonment for contempt of Court, the Registrar shall furnish the Sheriff or a constable or other peace officer, with a writ of personal attachment and committal to prison. Immediately on delivery of such writ the Sheriff or any constable or other peace officer to whom it is delivered, shall execute the same. Writ of committal.

ORDER XXXVII

SHORTHAND RECORDS

1. (1) At the trial of any action or at the hearing of any application where oral evidence is admitted the oral evidence may be taken down by a competent shorthand writer, approved by the Court. Shorthand writers.
- (2) Such approval may only be given if the remuneration of the shorthand writer is provided by law from the public funds or by one or more parties to the proceedings.
2. Every shorthand writer employed for the above purpose shall be deemed to be an officer of the Court, and shall, before entering on his duties, take before a Judge an oath or affirmation in the form prescribed in rule 3. Oath or affirmation.
3. The oath or affirmation to be taken by a shorthand writer shall be in the following form — Form of oath or affirmation.
- “I, A.B., do swear by Almighty God/affirm that I will faithfully, accurately and to the best of my ability take down in shorthand as directed by the Judge, the proceedings in any case

FEDERAL SUPREME COURT (ORIGINAL JURISDICTION)
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in which I may be employed as an officer of the Court, and that I will similarly, when required to do so, transcribe the same or any other notes taken by any officer of the Court."

Certification of notes and transcriptions.

4. The shorthand notes taken as above directed shall be certified by the shorthand writer as correct, and shall be filed with the Registrar. It shall not be necessary to transcribe them unless a Judge, or the Registrar acting under the authority of a Judge, so directs. If and when transcribed then the transcript of such notes shall be certified as correct by the transcribing shorthand writer, and the transcript shall be filed with the Registrar in lieu of the shorthand notes.

Certified notes, etc., deemed to be correct.

5. The shorthand notes so certified as correct, or the transcript similarly certified, as the case may be, shall be deemed to be correct unless the Court otherwise orders, and they shall constitute a part of the records of the Court.

Order for transcription.

6. (1) For the purpose of further proceedings, a party to a matter in which the services of a shorthand writer have been utilized may apply through the Registrar to have the shorthand notes transcribed, if an order to that effect has not already been made.

(2) Any such party shall be entitled to a copy of any transcript ordered to be made upon payment of such fees and upon compliance with such terms as the Registrar may, with the approval of a Judge, require.

ORDER XXXVIII

REGISTRIES

Central Registry and sub-registries.

1. There shall be established a Central Registry of the Federal Supreme Court, and sub-registries as follows:—

- (1) at the principal registries of the Supreme Court in the Territories of Jamaica, Trinidad and Tobago, Barbados and the Turks and Caicos Islands;
- (2) at the registry of the Supreme Court of the Leeward Islands and of the Windward Islands in the Territories of Grenada, St. Vincent, St. Lucia, Dominica, Antigua, Saint Christopher, Nevis and Montserrat;
- (3) at the registry of the Grand Court of the Cayman Islands.

2. (1) The Registrar shall be present and control the business of the Central Registry and shall give directions to deputy registrars with regard to the practice and procedure relating to the business of sub-registries.

Registrar and deputy registrars.

(2) Each sub-registry shall be in the charge of a deputy registrar who shall, subject to the directions of the Registrar, be present and control the business of the sub-registry.

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3. The deputy registrar, subject to the direction of the Registrar, may exercise and perform all or any of the powers and duties of the Registrar, and sign any documents which the Registrar is required by these Rules to sign. Deputy registrar to perform duties of Registrar.

4. The Registrar and deputy registrars shall by virtue of their office have power to take oaths and affidavits in the Federal Supreme Court and the like power may be exercised by any person duly authorised by or under the law in operation in a Territory to administer oaths for the purpose of a superior court of that Territory. Taking of oaths and affidavits.

5. The official seals to be used in the Registries shall be such as the Chief Justice from time to time directs. Seals of Registry.

6. The Registrar shall not be required to sign any document other than the following:— Documents requiring signature.

- All judgments and orders
- All payment vouchers
- All writs and orders for execution of whatever nature
- Bench warrants
- Commitments.

With the exception of the above documents a sealed copy shall be evidence of the authenticity of all documents other than those hereby required to be signed by the Registrar.

7. All proceedings or documents filed or issued shall be stamped with the seal of the Registry or sub-registry, and shall bear the date of the filing or issuing thereof. How proceedings to be filed.

8. All proceedings to be filed shall be brought in to the Registry or sub-registries together with a copy thereof. The original and the copy shall be sealed with an official seal, whereupon the original shall be filed and the copy handed out to the party filing the same. Such sealed copy shall be evidence of the contents of the original filed and such sealed copy shall be produced at all times when required by the Court or a Judge or by the Registrar. How proceedings to be filed.

9. (1) The Registrar shall keep at the Central Registry a Record Book of all actions, suits and proceedings under paragraph (1)(b) of article 80 of the Constitution whenever instituted, heard or determined, and a deputy registrar shall keep a record book of any proceedings instituted in the sub-registry of which he has charge. Record Books.

(2) A Record Book shall contain —

- (a) the number of the action, suit or application;
- (b) the names of the parties;
- (c) the date and place of hearing;
- (d) the names of advocates;
- (e) the subject matter of the action or of the application;
- (f) the judgment or order of the Court;
- (g) any subsequent proceedings and remarks.

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- Covers. 10. As soon as any proceedings are instituted for the exercise by the Federal Supreme Court of its original jurisdiction, the Registrar shall prepare a cover in which pleadings or documents relating to the case shall be filed and on the front page thereof shall be recorded particulars of such pleadings or documents and the dates on which they are received.
- Indexes to files to be kept. 11. Proper indexes of the titles of all actions and matters filed at the Central Registry or sub-registry shall be kept, so that the same may be conveniently referred to when required; and such indexes shall, at all times during office hours, be accessible to the public.
- Inspection of files. 12. Any person shall be allowed to inspect the file of documents or proceedings in any action or matter on payment of the prescribed fee.
- Restrictions on removal of documents from Registry. 13. No affidavit or record of the Court shall be taken out of the Registry without the order of a Judge, and no subpoena for the production of any such document shall be issued except with the leave of a Judge.
- Forwarding copies of proceedings to Central Registry. 14. The deputy registrar of each Territory, when he has received any documents filed in his sub-registry, shall forward to the Registrar at the Central Registry a copy of such documents and shall notify the Registrar of all judgments pronounced and orders made in every proceeding in the sub-registry as and when such judgments or orders shall be pronounced or made.
- Money paid into Court on order. 15. Money paid into Court under an order of the Court or a Judge shall not be paid out of Court except in pursuance of an order of the Court or a Judge.

ORDER XXXIX

RIGHT OF AUDIENCE

- Right of audience. 1. In all civil proceedings before the Court in the exercise of its original jurisdiction the parties may appear in person or be represented by any person —
- (a) who has a right of audience in proceedings before the superior court of the Territory in which the proceedings were instituted, or
 - (b) is a member of one of the Inns of Court and has the right of audience before a superior court of a Territory.

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APPENDIX A

O. IV, r. 6.

FORM 1

IN THE FEDERAL SUPREME COURT
ORIGINAL JURISDICTION

GENERAL FORM OF WRIT OF SUMMONS

Central Registry or Sub-
registry of
(Territory).

No. of 19

Between

A.B.

Plaintiff

and

C.D. (and E.F.)

Defendant(s).

Elizabeth the Second, by the Grace of God, of the United Kingdom of Great Britain, Northern Ireland, and of Her other Realms and Territories, Queen, Head of the Commonwealth, Defender of the Faith.

To C.D., of

(full address).

We command you, that within ten days (*or the number of days directed by the Court or Judge ordering service*) after the service of this writ on you, inclusive of the day of such service, you do cause an appearance to be entered for you in an action at the suit of A.B., and take notice that in default of your so doing the plaintiff may proceed therein, and judgment may be given in your absence.

Witness, The Honourable

, Chief

Justice of The West Indies, the day of

in the year of Our Lord one thousand nine hundred and

The defendant (or defendants) may appear hereto by entering an appearance or appearances) either personally or by solicitor at the Central Registry at Trinidad or sub-registry at (Territory).

(*Indorsements to be made on the writ before issue thereof*)

The plaintiff's claim is for, etc.

This writ was issued by A.B. of
address for service is

, whose

This writ was issued by G.H. of
address for service is
the said plaintiff, who resides at

, whose

, solicitor for

or

This writ was issued by J.K. of
address for service is

, whose

, agent for

of

, solicitor for

the said plaintiff, who resides at

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(And if authorization be indorsed)

I authorize the abovenamed G.H. to act as my solicitor in the matter.

(Signed) A.B.

(Indorsement to be made on writ after service thereof)

This writ was served by me at _____ on the
defendant personally or by (state method of service) on the
day of _____ 19 .
The _____ day of _____, 19 .

Marshal or Sheriff.

O. VI, r. 6.

FORM 2

**IN THE FEDERAL SUPREME COURT
ORIGINAL JURISDICTION**

MEMORANDUM OF APPEARANCE

(Title as in Form 1)

Enter an appearance for _____ in this action.

Dated the _____ day of _____ 19 .

(Signed)

Defendant

or

Solicitor for the above-named defendant.

This appearance is entered by _____ of.....
whose address for service is at

or

This appearance is entered by _____ of.....
whose address for service and place of business is at
Solicitor for the defendant who resides at

(Where the entry of appearance limits the defence insert the following after the words "this action" above).

The said defendant limits his defence to part only of the property mentioned in the writ of summons, namely, to
(describe the part of the property to which the defence is limited).

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O. IX, r. 1(3).

FORM 3

IN THE FEDERAL SUPREME COURT
ORIGINAL JURISDICTION

MEMORANDUM OF APPEARANCE TO NOTICE
(Title as in Notice)

Enter an appearance for _____ to the notice
issued in this action on the _____ day of _____ 19 _____,
by the defendant _____, under the
provisions of Order IX, rule 1(3) of the Federal Supreme Court (Original
Jurisdiction) Rules, 1958.

Dated the _____ day of _____ 19 _____
(Signed).

This appearance etc.

O. IX, r. 2.

FORM 4

IN THE FEDERAL SUPREME COURT
ORIGINAL JURISDICTION

THIRD PARTY NOTICE
(Title as in Form 1)

Between	A.B.	Plaintiff
	and	
	C.D.	Defendant
	and	
	E.F.	Third Party.

THIRD PARTY NOTICE

Issued pursuant to the Order of the Honourable Mr. Justice
, dated the _____ day of _____ 19 _____

To E.F. of _____

TAKE NOTICE that this action has been brought by the plaintiff
against the defendant. In it the plaintiff claims against the defendant (*here
state concisely the nature of the plaintiff's claim*) as appears by the indorsement
on the writ of summons (*or statement of claim*) a copy whereof is delivered
herewith.

The defendant claims against you [*here state concisely the nature of the
claim against the third party as for instance to be indemnified against the
plaintiff's claim and the costs of this action or contribution to the extent of*

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(one half) of the plaintiff's claim] or [the following relief or remedy namely on the grounds that (*state concisely the grounds of the claim against the third party*)].

And take notice that if you wish to dispute the plaintiff's claim against the defendant, or the defendant's claim against you, you must cause an appearance to be entered for you within ten days after the service of this notice upon you.

In default of your entering such appearance, you will be deemed to admit the plaintiff's claim against the defendant and the defendant's claim against you and your liability to (*indemnify the defendant or to contribute to the extent claimed or to stating the relief or remedy sought*) and the validity of any judgment that may be given in the action and you will be bound by such judgment and such judgment may be enforced against you pursuant to Order IX of the Federal Supreme Court (Original Jurisdiction) Rules, 1958.

Dated the day of 19 ..
(Signed)
Solicitor for the defendants.

Appearance is to be entered at the Central Registry in Trinidad (or if the action is proceeding in a Territory, then at the Sub-Registry for such Territory).

O. XVIII, r. 2(2).

FORM 5

IN THE FEDERAL SUPREME COURT
ORIGINAL JURISDICTION

SUMMONS FOR DIRECTIONS

Between Plaintiff
and

..... Defendant

TAKE NOTICE that the Plaintiff/Defendant intends to apply on the day of 19.... at o'clock in the noon, before a Judge in Chambers at, for an order for directions in regard to the following matters in the abovenamed suit:—

And generally the proceedings to be taken in the action and the costs of this application.

Dated at this day of, 19..
Solicitor for the Plaintiff/Defendant.

To:
and

To the Registrar of the Federal Supreme Court.

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O. XIX, r. 4.

FORM 6

IN THE FEDERAL SUPREME COURT
ORIGINAL JURISDICTION

FORM OF INTERROGATORIES

(Title as in Form 1)

Interrogatories on behalf of the above-named (plaintiff or defendant) for the examination of the abovenamed (defendant or plaintiff):

1. Did not etc.,
2. Has not etc.,
etc., etc., etc.

You are required to answer all the above interrogatories.

or

(The defendant
interrogatories numbered

is required to answer the

The defendant
interrogatories numbered

is required to answer the

).

Dated the

day of

19

Solicitor for

O. XIX, r. 7.

FORM 7

IN THE FEDERAL SUPREME COURT
ORIGINAL JURISDICTION

FORM OF ANSWER TO INTERROGATORIES

(Title as in Form 1)

The answer of the above-named
interrogatories for his examination by the abovenamed

to the

In answer to the said interrogatories I
abovenamed

the
make oath and say as follows:—

- 1.
 - 2.
- etc., etc., etc.

FEDERAL SUPREME COURT (ORIGINAL JURISDICTION) RULES

O. XIX, r. 10.

FORM 8

IN THE FEDERAL SUPREME COURT
ORIGINAL JURISDICTION

FORM OF AFFIDAVIT OF DOCUMENTS
(Title as in Form 1)

I, _____, the above-named

(defendant or plaintiff) make oath and say as follows:—

1. I have in my possession or power the documents relating to the matters in question in this suit set forth in the first and second parts of the First Schedule hereto.

2. I object to produce the said documents set forth in the second part of the said First Schedule hereto (state grounds of objection).

3. I have had, but have not now, in my possession or power the documents relating to the matters in question in this suit set forth in the Second Schedule hereto.

4. The last-mentioned documents were last in my possession or power on (state when, and what has become of them and in whose possession they now are).

5. According to the best of my knowledge, information and belief, I have not now, and never had in my possession, custody or power, or in the possession, custody or power of my solicitors or agents, solicitor or agent, or in the possession, custody or power of any other persons or person on my behalf, any deed, account, book of account, voucher, receipt, letter, memorandum, paper or writing, or any copy of or extract from any such document, or any other document whatsoever relating to the matters in question in this suit, or any of them or wherein any entry has been made relative to such matters, or any of them, other than and except the documents set forth in the said First and Second Schedules hereto.

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FEDERAL SUPREME COURT RULES

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FEDERAL SUPREME COURT (ORIGINAL JURISDICTION) RULES

O. XIX, r. 14.

FORM 9

IN THE FEDERAL SUPREME COURT
ORIGINAL JURISDICTION

FORM OF NOTICE TO PRODUCE DOCUMENTS
FOR INSPECTION
(Title as in Form 1)

Take notice that the (plaintiff or defendant) requires you to produce for his inspection the following documents referred to in your (Statement of Claim or Defence, or affidavit sworn the day of 19).

Dated the day of 19 .

Solicitor for the

To:

Mr.
Solicitor for the

LIST OF DOCUMENTS

- 1.
- 2.

etc., etc., etc.

O. XIX, r. 15.

FORM 10

IN THE FEDERAL SUPREME COURT
ORIGINAL JURISDICTION

FORM OF NOTICE TO INSPECT DOCUMENTS
(Title as in Form 1)

Take notice that you can inspect the documents mentioned in your notice of the day of 19 , (except the deed numbered in that notice) at (insert place of inspection) on next the instant between the hours of and o'clock.

Or, that the (Plaintiff or Defendant) objects to giving you inspection of the documents mentioned in your notice of the day of 19 , on the ground that (state the ground) :—

Dated the day of 19 .

Solicitor for the

To:

Mr.
Solicitor for the

FEDERAL SUPREME COURT (ORIGINAL JURISDICTION) RULES

O. XX, r. 2(2).

FORM 11

IN THE FEDERAL SUPREME COURT
ORIGINAL JURISDICTION

NOTICE TO ADMIT DOCUMENTS
(Title as in Form 1)

Between: Plaintiff
and Defendant

You are hereby notified that the Plaintiff/Defendant in this cause proposed to adduce in evidence the several documents hereunder specified, and that the same may be inspected by the Defendant/Plaintiff, his solicitor or agent, at on the day of 19..., between the hours of; and the Defendant/Plaintiff is hereby required within the days of the service thereon, to admit that such of the said documents as are specified to be originals were respectively written, signed, or executed, as they purport respectively to have been; that such as are specified as copies are true copies; and that such as are stated to have been served, sent, or delivered, were so served, sent or delivered respectively; saving all just exceptions to the admissibility of all such documents as evidence in this cause.

Dated this day of, 19....

Solicitor for the Plaintiff/Defendant.

TO:

Originals

Description of Documents	Dates

Copies

Description of Documents	Dates	Original or Duplicate served, sent, or delivered when, how and by whom

FEDERAL SUPREME COURT (ORIGINAL JURISDICTION) RULES

O. XX, r. 3(2).

FORM 12

IN THE FEDERAL SUPREME COURT
ORIGINAL JURISDICTION

NOTICE TO ADMIT FACTS

(Title as in Form 1).

Between: Plaintiff
and

..... Defendant
You are hereby notified that the Plaintiff/Defendant in this cause requires the Defendant/Plaintiff to admit, for the purposes of this cause only, the several facts respectively hereunder specified; and the Defendant/Plaintiff is hereby required within days from the service of this notice, to admit the said several facts, saving all just exceptions to the admissibility of such facts as evidence in this cause.

Dated this day of, 19....

.....
Solicitor for the Plaintiff/Defendant.

To:—

THE FACTS, THE ADMISSION OF WHICH IS REQUIRED, ARE:—

O. XX, r. 3(3).

FORM 13

IN THE FEDERAL SUPREME COURT
ORIGINAL JURISDICTION

ADMISSION OF FACTS PURSUANT TO NOTICE

(Title as in Form 1)

Between: Plaintiff
and

..... Defendant
The Plaintiff/Defendant in this cause, for the purpose of this cause only, hereby admits the several facts respectively hereunder specified subject to the qualifications or limitations, if any, hereunder specified, saving all just exceptions to the admissibility of any such facts, or any of them, as evidence in this cause:

Provided that this admission is made for the purposes of this cause only, and is not an admission to be used against the Defendant/Plaintiff on any other occasion, or by anyone other than the Plaintiff/Defendant or party requiring the admission.

FEDERAL SUPREME COURT (ORIGINAL JURISDICTION) RULES

Dated this.....day of....., 19...

Solicitor for the Defendant/Plaintiff.

To:—

Facts admitted	Qualifications or limitations, if any, subject to which they are admitted.

O. XXII, r. 1(2).

FORM 14

IN THE FEDERAL SUPREME COURT
ORIGINAL JURISDICTION

FORM OF REQUEST FOR HEARING
(Title as in Form 1)

The Registrar is hereby requested to enter this action on the Hearing List for hearing.

Three complete copies of the whole of the pleadings is delivered herewith.

The hearing of this action is estimated to last day(s)
or not less than day(s).

Dated the.....day of.....19...

Solicitor for the

O. XXV, r. 1(2).

FORM 15

IN THE FEDERAL SUPREME COURT
ORIGINAL JURISDICTION

WRIT OF EXECUTION
(Title as in Form 1)

Between: Plaintiff
and

..... Defendant

ELIZABETH THE SECOND, by the Grace of God of the United Kingdom of Great Britain and Northern Ireland and of Our other Realms and Territories, Queen, Head of the Commonwealth, Defender of the Faith:

FEDERAL SUPREME COURT (ORIGINAL JURISDICTION) RULES

To the Sheriff/Marshal/Bailiff of....., Greeting:

We command you that of the goods and chattels of.....
you cause to be made the sum of \$.....and also interest
thereon at the rate of \$.....per centum per annum from the
.....day of.....19..., which said sum
of money and interest were lately before us in our Federal Supreme Court
in a certain cause where
is Plaintiff and
by a judgment (or order) of our said Court bearing date the.....
day of....., 19..., adjudged (or ordered) to be paid
by the said to the said
..... together with certain costs in
the said judgment (or order) mentioned and which costs have been
taxed and allowed by the Taxing Officer of our said Court at the
sum of \$..... as appears by the certificate of the said
Taxing Officer dated the.....day of.....
19.... And that of the goods and chattels of the said.....
..... you cause to be made the sum of \$.....
and that you have that money before us in our said Court immediately
after the execution thereof to be paid to the said.....
.....in pursuance of the said judgment (or order).
And have this writ before us with whatsoever you have done thereupon.

Witness: The Honourable Chief Justice of The West Indies this
..... day of.....in the year of Our
Lord One Thousand Nine Hundred and.....

.....
Registrar,

ENDORSEMENT

Levy \$.....and \$.....for costs of
execution, etc., and also interest on \$.....at \$.....
per centum per annum from theday of.....
19.... until payment; besides Sheriff's poundage, officers' costs of levying
and all other legal incidental expenses.

The writ was issued by.....
of..... Solicitor for
.....who resides at
.....

Theis a.....
and resides at.....

FEDERAL SUPREME COURT (ORIGINAL JURISDICTION) RULES

O. XXVIII, r. 8.

FORM 16

**IN THE FEDERAL SUPREME COURT
ORIGINAL JURISDICTION**

NOTICE OF MOTION
(Title as in Form 1)

Take Notice, that the Court will be moved on _____ day, the _____ day of _____ 19____, at _____ o'clock in the forenoon, or so soon thereafter as counsel can be heard, by Mr. _____, of _____ counsel for the above-named (plaintiff or defendant) that _____, and that the costs of this application be _____

Dated the _____ day of _____, 19____.

(Signed) _____ of _____ agent for
Solicitor for the

To:

O.XXIX, r. 2(2)

FORM 17

**IN THE FEDERAL SUPREME COURT
ORIGINAL JURISDICTION**

GENERAL FORM OF SUMMONS
(Title as in Form 1)

Let all parties concerned attend the Judge in Chambers on _____ day, the _____ day of _____ 19____, at _____ o'clock in the _____ noon, on the hearing of an application on the part of _____ for an order that, etc.
(*setting out the order to be applied for*).

Dated the _____ day of _____, 19____.

This summons was taken out by _____ of _____ solicitor for

To:

FEDERAL SUPREME COURT (ORIGINAL JURISDICTION) RULES

O. XXIX, r. 13.

FORM 18

**IN THE FEDERAL SUPREME COURT
ORIGINAL JURISDICTION**

GENERAL FORM OF ORDER

(Title as in Form 1)

Before the Honourable Mr. Justice _____, in Chambers
the _____ day of _____, 19____
Entered the _____ day of _____, 19____
Upon hearing _____ and upon reading the affidavit
of _____, filed the _____ day of _____ 19____
and _____
It is ordered _____ and that the costs of this
application be _____

O. XXX, r. 7.

FORM 19

**IN THE FEDERAL SUPREME COURT
ORIGINAL JURISDICTION**

FORM OF ORIGINATING SUMMONS

(Title as in Form 1)

(If the question to be determined arises in the administration of an estate or a trust entitle it also in the matter of the estate or trust).

Let _____ of _____ within ten
days after service of this summons on him inclusive of the day of such
service, cause an appearance to be entered for him to this summons, which
is issued upon the application of _____

_____ of _____ who claims to be *(state the
nature of the claim)* for the determination of the following questions:
(State the questions)

Dated the _____ day of _____ 19____

This summons was taken out by _____, solicitor
for the abovenamed.

The defendant may appear hereto by entering appearance either personally or by solicitor at the Central Registry (or Sub-Registry).

Note: If the defendant does not enter appearance within the time and at the place above mentioned, such order will be made and proceedings taken as the Judge may think fit and expedient.

FEDERAL SUPREME COURT (ORIGINAL JURISDICTION) RULES

O. XXX, r. 7.

FORM 20

**IN THE FEDERAL SUPREME COURT
ORIGINAL JURISDICTION**

FORM OF ORIGINATING SUMMONS NOT INTER PARTES
(Title as in Form 1)

In the matter of the Trusts of the Will of A.B. And in the matter
of (or as the case may be).

Let

of

within eight days after service of this summons on him, inclusive of the
day of such service, cause an appearance to be entered for him to this
summons, which is issued upon the application of

of

for an order

that (*state the object of the application*).

Dated the

day of

19

This summons was taken out by of
solicitor for the above-named

The respondent may appear hereto by entering appearance either per-
sonally, or by solicitor at the Central Registry (or Sub-Registry).

Note: If the respondent does not enter appearance within the time and at the
place above mentioned, such order will be made and proceedings taken
as the Judge may think fit and expedient.

O. XXX, r. 7.

FORM 21

**IN THE FEDERAL SUPREME COURT
ORIGINAL JURISDICTION**

FORM OF EX PARTE ORIGINATING SUMMONS
(Title as in Form 1)

In the matter of A.B., an infant (or as may be).

Let all the parties concerned attend the Judge in Chambers at the time
specified in the margin hereof, on the hearing of an application on the part
of the above-named

that, etc., (*setting out the order to be applied for*)

solicitor for the plaintiff.

FEDERAL SUPREME COURT (ORIGINAL JURISDICTION) RULES

O. XXX, r. 9.

FORM 22

IN THE FEDERAL SUPREME COURT
ORIGINAL JURISDICTION

FORM OF NOTICE OF APPOINTMENT TO HEAR
ORIGINATING SUMMONS

(Title as in Forms 19 or 20).

This summons was taken out by

To (insert the name of the defendant or respondent).

Take notice that you are required to attend the Judge in Chambers
on _____ day of _____, 19____, at _____
o'clock in the _____ noon, for the hearing of the originating
summons issued herein on the _____ day of _____

19 , and that if you do not attend in person or by solicitor at the time
and place mentioned, such order will be made and proceedings taken as the
Judge may think just and expedient.

(Signed)

Solicitor for the Plaintiff (or applicant).

O.XXXI, r. 3(4).

FORM 23

IN THE FEDERAL SUPREME COURT
ORIGINAL JURISDICTION

In the matter of an application by A.B. on behalf of *the Federal Government/the Government of (Territory) for leave to apply for an order of *mandamus/prohibition.

1. The applicant A.B. holds the office of _____
and makes the application on behalf of "The Federal Government"
or "The Government of _____" (Territory).
2. The relief sought is an order *for *mandamus directing* prohibiting
C.D. of _____
C.D. of _____ (address) and E.F. of _____
(address) and E.F. of _____

```
(address) to .....
(address) from
```

3. The grounds on which the said relief is sought are as follows :—
4. The applicant A.B. applies for this order under the law in operation in (state Territory) and (state Federal Act if relevant).

*Omit whichever is inapplicable.

O.XXXI, r. 4(5).

IN THE FEDERAL SUPREME COURT
ORIGINAL JURISDICTION

TAKE NOTICE that pursuant to the leave of the Honourable Mr.

or so soon thereafter as Counsel can be heard on behalf of A.B.

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FEDERAL SUPREME COURT (ORIGINAL JURISDICTION) RULES

O. XXXI, r. 4(5).

FORM 24B

**IN THE FEDERAL SUPREME COURT
ORIGINAL JURISDICTION**

SUMMONS FOR MANDAMUS OR PROHIBITION

The Honourable Mr. Justice
Judge in Chambers.

Vacation

In the matter of an application for an order of *mandamus prohibition.

Upon hearing Mr.

of

Counsel for

and upon reading the

affidavit of

filed herein :

Let all parties attend the Judge in Chambers at

on the

day of

19 , at

o'clock

in the

noon upon the hearing of an application on the part of A.B. for an order of *mandamus prohibition that (in terms of the relief sought in the Statement accompanying the affidavit filed in support of the application for leave to issue this summons) upon the grounds set forth in the copy Statement served herewith used on the application for leave to issue this summons.

And that the said C.D. be ordered to pay to the said A.B. the costs of and occasioned by this application.

Dated the

day of

19

to the above-named C.D. and to Messrs.

his solicitors.

*Omit whichever is inapplicable.

O. XXXV, r. 1.

FORM 25

**IN THE FEDERAL SUPREME COURT
ORIGINAL JURISDICTION**

PRAECIPE FOR A SUBPOENA

(Title as in Form 1)

Seal writ of subpoena

, on behalf of

the

directed to

Returnable

Dated the

day of

19

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FEDERAL SUPREME COURT (ORIGINAL JURISDICTION) RULES

O. XXXV, r. 3.

FORM 26

**IN THE FEDERAL SUPREME COURT
ORIGINAL JURISDICTION**

SUBPOENA DUCES TECUM

Between: Plaintiff
and
..... Defendant

ELIZABETH THE SECOND, by the Grace of God of the United Kingdom of Great Britain and Northern Ireland and of Our other Realms and Territories, Queen, Head of the Commonwealth, Defender of the Faith :

To (the names of three witnesses may be inserted)

Greeting :

We command you to attend before the Federal Supreme Court at on day the day of , 19 , at the hour of in the noon, and so from day to day until the above cause is tried to give evidence on behalf of the , and also to bring with you and produce at the time and place aforesaid (specify documents to be produced).

Witness: The Honourable Chief Justice of The West Indies this day of 19

Registrar.

O. XXXV, r. 3.

FORM 27

**IN THE FEDERAL SUPREME COURT
ORIGINAL JURISDICTION**

HABEAS CORPUS AD TESTIFICANDUM

Between Plaintiff
and
..... Defendant

ELIZABETH THE SECOND, by the Grace of God of the United Kingdom of Great Britain and Northern Ireland and of Our other Realms and Territories Queen, Head of the Commonwealth, Defender of the Faith :

LAWS OF THE WEST INDIES

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FEDERAL SUPREME COURT (ORIGINAL JURISDICTION) RULES

To the Officer in charge of the Prison at

We command you that you bring who
it is said is detained in the prison under your custody, before
at on day the
day of , 19 at the hour of in the
noon, and so from day to day until the above action is tried, to give evidence
on behalf of the

And that immediately after the said
shall have so given his evidence you safely conduct him to the prison from
which he shall have been brought.

Witness: The Honourable , Chief
Justice of The West Indies at this
day of 19

Registrar.

O. XXXV, r. 3.

FORM 28

IN THE FEDERAL SUPREME COURT
ORIGINAL JURISDICTION

SUBPOENA AD TESTIFICANDUM

Between Plaintiff
and

..... Defendant

ELIZABETH THE SECOND, by the Grace of God of the United
Kingdom of Great Britain and Northern Ireland and of Our other Realms
and Territories, Queen, Head of the Commonwealth, Defender of the Faith:

To (name of witness) of

Greeting:

We command you to attend before the Federal Supreme Court,
at on day the day of
19 , at the hour of in the
noon, and so from day to day until the above cause is
tried, to give evidence on behalf of the Plaintiff/Defendant.

Witness: The Honourable , Chief
Justice of The West Indies this day of 19

Registrar.

FEDERAL SUPREME COURT (ORIGINAL JURISDICTION) RULES

APPENDIX B

FEES OF COURT

Schedule of Fees referred to in Order XXXIII, Rule 2 to be taken in the Central Registry and/or Sub-Registries of the Federal Supreme Court.

	£.	s.	d. or \$	¢
1. On sealing a writ of summons for commencement of an action or originating summons or application	1.	0.	0.	4.80
2. On sealing a concurrent, renewed or amended writ of summons or amended originating summons		5.	0.	1.20
3. On filing or sealing any notice not otherwise provided for		2.	6.	.60
4. On sealing a writ of mandamus or prohibition	1.	0.	0.	4.80
5. On sealing a writ of subpoena not exceeding three persons		5.	0.	1.20
6. On sealing every other writ		10.	0.	2.40
7. On every summons before a Judge		5.	0.	1.20
8. On sealing a commission	1.	0.	0.	4.80
9. On entering an appearance for each person		2.	6.	.60
10. On making office copies of any document—for the first folio (to consist of one hundred words)		1.	0.	.24
11. For every other folio or part of a folio			6.	.12
12. Commissioner's fee on taking oath to affidavit or affirmation in lieu of an affidavit or declaration		2.	0.	.48
13. And in addition thereto for each exhibit therein referred to and required to be marked		1.	0.	.24
14. On filing every affidavit including exhibits annexed not otherwise provided for		2.	6.	.60
15. On filing every other document		2.	6.	.60
16. On every certificate of appearance, or of a pleading, affidavit or proceeding having been entered, filed or taken, or of the negative thereof		2.	6.	.60
17. On setting down any cause for assessment of damages or for hearing before the Court	1.	1.	0.	5.04
18. On filing every motion to the Court, to include fee on setting down for hearing		15.	0.	3.60
19. On every judgment after trial or on appeal	1.	0.	0.	4.80

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FEDERAL SUPREME COURT (ORIGINAL JURISDICTION) RULES

20. On every judgment pursuant to an order made in chambers	10.	0.	2.40	
21. On every judgment by confession or default of appearance or defence	10.	0.	2.40	
22. On filing every order made by a Judge in Chambers or by the Court for which no other fee is prescribed	5.	0.	1.20	
23. On every taxation of bill of costs including certificate	10.	0.	2.40	
24. On every certificate of funds in Court ..	1.	0.	.24	
25. On every rule or order in the course of any action or proceeding.	5.	0.	1.20	
26. On Registrar signing every deed	1.	1.	0.	5.04
27. On every search in a Clause Book ..	2.	6.	.60	
28. On inspection of a judgment or order ..	2.	6.	.60	
29. On inspection of any other document ..	2.	6.	.60	
30. On searching any index of actions ..	2.	6.	.60	
31. For inspecting the file of proceedings in any action or matter	2.	6.	.60	
32. On perusing and allowing by a Judge of any bond	5.	0.	1.20	
33. On perusing and allowing by a Judge of any deed	1.	1.	0.	5.04
34. On every certificate of result of account or inquiry or other matter referred to a Judge or Taxing Officer	1.	1.	0.	5.04
35. On every Judge's certificate to any deed or other instrument	1.	0.	0.	4.80
36. On taking an account of moneys received by an executor, administrator, trustee, agent, solicitor, mortgagee, co-tenant, partner, receiver, guardian, consignee, bailee, manager, official or other liquidator, sequestrator or execution creditor or other person liable to account for every £100 (or \$480.) or fraction or £100 (or \$480.) of the amount found to have been received without deducting any payment.	1.	0.	.24	
37. On appointment to settle record on appeal to Privy Council	5.	0.	1.20	
38. On certifying any document as an office copy	5.	0.	1.20	
39. If in a foreign language, the actual cost of making and examining the copy, and, in addition, for marking and sealing the copy as an office copy	5.	0.	1.20	

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FEDERAL SUPREME COURT (ORIGINAL JURISDICTION) RULES

40. For an office copy of a plan, map, section, drawing, photograph or diagram the actual cost of making and examining the copy, and, in addition, for marking and sealing the copy as an office copy	5.	0.	1.20
41. For a copy of reasons for judgment of a Justice or a Court, per folio of 100 words ..	6.		.12
But with a minimum fee, for one set of reasons, of	5.	0.	1.20
And with a maximum fee for one set of reasons, of	5.	5.	0.
42. For a copy of a report of a Registrar per folio of 100 words	6.		.12
43. For a certificate of a Registrar for which no special fee is provided	5.	0.	1.20
44. On obtaining appointment for examination of a witness before an officer of the Court or other person	5.	0.	1.20
45. In respect of every witness examined by an officer or other person in his office, for each hour or part of an hour	5.	0.	1.20
46. For an examination of witnesses away from the office of the examiner; the reasonable travelling and other expenses in addition to the fee chargeable under Item 45 ..	2.	6.	.60

SHERIFF'S OR MARSHAL'S FEES

The fees to be taken in the offices of the Sheriff, are the same as those which, by the practice of the Supreme Court of the Territory in which the proceeding is taken or the act is done or authorised are required to be taken by the Sheriff, in respect of a like proceeding or act in a cause pending in that Court.

FEDERAL SUPREME COURT (ORIGINAL JURISDICTION) RULES

APPENDIX C

LEGAL PRACTITIONERS' FEES

Schedule of Allowances under Order XXXIV, rule 2(1) (b).

(Save where otherwise mentioned, a folio shall consist of one hundred words (or figures) or parts thereof; four figures to count as one word).

Writs, Summonses and Warrants.

	£.	s.	d. or \$	¢
1. Writ of summons for the commencement of any action	1.	1.	0.	5.04
2. Concurrent writ of summons	10.	0.		2.40
3. Renewal of a writ of summons	10.	0.		2.40
4. Notice of a writ for service in lieu of writ out of jurisdiction	10.	0.		2.40
5. Writ of inquiry	15.	0.		3.60
6. Writ of mandamus	15.	0.		3.60
7. Or per folio	2.	0.		.48
8. Writ of subpoena ad testificandum or duces tecum	10.	0.		2.40
9. And if more than four folios, for each folio beyond four	2.	0.		.48
10. Writ or writs of subpoena ad testificandum for any number of persons not exceeding three, and the same for every additional number not exceeding three	10.	0.		2.40
11. Writ of execution, or other writ to enforce any judgment or order	15.	0.		3.60
12. And if more than four folios, for each folio beyond four	2.	0.		.48
13. Procuring a writ of execution or notice to the Sheriff or Marshal, marked with a seal or renewal	10.	0.		2.40
14. Notice thereof to serve on Sheriff or Marshal	7.	6.		1.80
15. Any writ not included in the above	15.	0.		3.60
16. These fees include all indorsements and copies, or praecipes, for the officer sealing them, and attendances to issue or seal, except where otherwise provided, but not the Court fees				
17. Summonses to attend at Judge's Chambers	10.	0.		2.40
18. Or if special, at Taxing Officer's discretion, not exceeding	1.	1.	0.	5.04
19. Copy for the Judge, when required	2.	0.		.48

FEDERAL SUPREME COURT (ORIGINAL JURISDICTION) RULES

20. Or per folio	6.	.12
21. Originating summons for proceedings in chambers at Taxing Officer's discretion not exceeding	2. 2. 0.	10.08
22. And attending to get same and duplicate sealed, and at the proper office to file duplicate and get copies for service stamped	1. 0. 0.	4.80
23. Copy for the Judge	2. 0.	.48
24. Or per folio	6.	.12

Services and Notices.

25. Service, or filing in lieu of service, of any writ, summons, warrant, interrogatories, petition, order, or notice on a party who has not entered an appearance, and if not authorised to be served by post	7. 6.	1.80
26. If served at a distance of more than two miles from the nearest place of business, or office of the solicitor serving the same, for each mile beyond such two miles therefrom	2. 0.	.48
27. Where, in consequence of the distance of the party to be served, it is proper to effect such service through an agent for correspondence in addition	10. 6.	2.52
28. Where more than one attendance is necessary to effect service, or to ground an application for substituted service, such further allowance may be made as the Taxing Officer shall think fit		
29. For service out of the jurisdiction such allowance is to be made as the Taxing Officer shall think fit		
30. Service where an appearance has been entered on the solicitor or party	6. 8.	1.60
31. Or if authorised to be served by post	6. 8.	1.60
32. Where any writ, order, and notice, or any two of them, have to be served together, one fee only for service is allowed		

In addition to the above fees, the following allowances are to be made.

33. As to writs, if exceeding two folios, for a copy for service, per folio beyond such two	6.	.12
34. As to summons to attend at the Judge's Chambers, for each copy to serve	2. 0.	.48
35. Or per folio	6.	.12

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36. For preparing or filling up for service in any other cause or matter, each notice to creditors to prove claims, and each notice that cheques may be received for principal and interest, and costs, if any	6.	8.	1.60
37. For preparing notice to produce on the trial or hearing of an action, or notice to admit	10.	6.	2.52
38. If special or necessarily long, such allowance as the Taxing Officer shall think proper, not exceeding per folio	1.	0.	.24
39. And for each copy, such allowance as the Taxing Officer shall think proper, not exceeding per folio	6.		.12
40. For preparing notice of motion	5.	0.	1.20
41. Or per folio	2.	0.	.48
42. Copy for service	2.	0.	.48
43. Or per folio	6.		.12
44. For preparing any necessary or proper notice, not otherwise provided for	2.	0.	.48
45. Or if special, and necessarily exceeding three folios, for preparing same, for each folio beyond three	1.	0.	.24
46. And for each copy for service, per folio beyond such three	6.		.12
47. Copies for service of interrogatories and petitions, and or orders with necessary notices (if any) to accompany, per folio ..	6.		.12
48. Except as otherwise provided, the allowances for services include copies for service			
49. Where notice of filing affidavits is required, only one notice is to be allowed for a set of affidavits filed, or which ought to be filed, together			
50. Where any appointment is or ought to be adjourned, service of a notice of the adjournment, or next appointment, is not to be allowed			
51. Entering any appearance	10.	6.	2.52
52. If entered at one time, for more than one person, for every defendant beyond the first	2.	0.	.48
53. If a person appearing to a writ of summons to recover land limits his defence by his memorandum of appearance, in addition to the above	10.	6.	2.52

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54. To sue or defend	1.	1.	0.	5.04
55. For statement of claim or special case ..	2.	2.	0.	10.08
56. For originating summons	1.	1.	0.	5.04
57. For defence or further defence	1.	1.	0.	5.04
58. For counterclaim	1.	1.	0.	5.04
59. For reply when defendant sets up a counterclaim	1.	1.	0.	5.04
60. For reply or further reply in any other case with or without joinder of issue	13.	4.		3.20
61. For confession of defence	13.	4.		3.20
62. For joinder of issue without other matter ..	13.	4.		3.20
63. For special application, any other pleading (not being a summons), and interrogatories for examination of a party or witness ..	2.	2.	0.	10.08
64. For statement of facts such fee may be allowed as the Taxing Officer shall think fit, having regard to all the circumstances of the case.				
65. To amend any pleading	1.	1.	0.	5.04
66. For affidavit in answer to interrogatories, and other special affidavits	10.	6.		2.52
67. To appeal against order of Court or Judge, and to appear thereon	2.	2.	0.	10.08
68. To add parties by order of Court or Judge ..	13.	4.		3.20
69. For counsel to advise on evidence when the evidence in chief is to be taken orally ..	10.	6.		2.52
70. Or not to exceed	1.	1.	0.	5.04
71. For counsel to make any application to a Court or Judge where no other brief ..	1.	1.	0.	5.04
72. For brief on motion for special injunction ..	2.	2.	0.	10.08
73. For brief on hearing or trial of action upon notice of trial or notice for judgment given, whether such trial be before a Judge, or before an official or special referee, or on trial of an issue of fact before a Judge, commissioner or referee or an assessment of damages	3.	3.	0.	15.12
74. For such brief, and for brief on the hearing of an appeal when witnesses are to be examined or cross-examined, such fee may be allowed as the Taxing Officer shall think fit, having regard to all the circumstances of the case, and to other allowances, if any, for attendances on witnesses and procuring evidence				
75. For brief on hearing of an originating summons	3.	3.	0.	15.12

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76. The fees for instructions for brief are to apply to a hearing on further consideration in Court only where an order for accounts and inquiries was made without such hearing or trial, as above mentioned.

Drawing Pleadings and other Documents.

77. Statement of Claim	2.	2.	0.	10.08
78. Or per folio		1.	6.	.36
79. Defence	1.	1.	0.	5.04
80. Or per folio		1.	6.	.36
81. Counterclaim	2.	2.	0.	10.08
82. Or per folio		1.	6.	.36
83. Reply, with or without joinder or issue, confession of defence, joinder of issue without other matter, and any other pleading (not being a petition or summons) and amendments of any pleading	1.	1.	0.	5.04
84. Or per folio		1.	6.	.36
85. Particulars, breaches, and objections, when required, and one copy to deliver	10.	6.		2.52
86. Or such amount as the Taxing Officer shall think fit, not exceeding per folio		1.	6.	.36
87. If more than one copy to be delivered, for each other copy per folio			6.	.12
88. Special case, whether original or in action, affidavits in answer to interrogatories and other special affidavits, special petitions, and interrogatories, per folio	1.	6.		.36
89. Brief, on trial or hearing of cause, issue of fact, assessment of damages, examination of witnesses, special case and petition before a Court or Judge, commissioner, referee, examiner, or officer of the Court, when necessary and proper in addition to pleadings including necessary and proper observations:				
Original matter per folio	1.	6.		.36
Other matter per folio			6.	.12
90. Brief on application to add parties	15.	6.		3.72
91. Or original matter per folio	1.	6.		.36
Or other matter per folio			6.	.12
92. Brief on further consideration, per sheet of 10 folios	10.	6.		2.52
93. Accounts, statements, and other documents for the Judge's Chambers, when required, not exceeding per folio		1.	6.	.36
94. Advertisements to be signed by Taxing Officer, including attendance therefor	1.	1.	0.	5.04

FEDERAL SUPREME COURT (ORIGINAL JURISDICTION) RULES

95. Bills of costs for taxation, including copy for the Taxing Officer per folio 3. 0. .72
- NOTE: A folio is to comprise 72 words, every figure comprised in a column or authorized to be used being counted as one word.

Copies.

96. Of pleadings, briefs, and other documents, where no other provision is made, at per folio 6. .12
97. Close copies are not to be allowed as of course, but the allowance is to depend on the propriety of making or sending the copies, which in each case is to be shown and considered by the Taxing Officer ..

Perusals

98. Of statement of claim, defence, reply, joinder or issue, and other pleading (not being a petition in a pending cause or matter, or summons other than an originating summons) by the solicitor of the party to whom the same are delivered .. 1. 1. 0. 5.04
99. Or per folio 6. .12
100. Of amendment of any such pleading in writing 10. 6. 2.52
101. Or per folio 6. .12
102. Of interrogatories to be answered by a party by his solicitor 1. 1. 0. 5.04
103. Or per folio 6. .12
104. Of special case or statement of facts by the solicitor of any party except the one by whom it is prepared 1. 1. 0. 5.04
105. Or per folio 6. .12
106. Of copy order to add parties, notice of defendant's claim against any person not a party to the action and of defendant's defence and counterclaim served on a person not a party by the solicitor of the party served therewith, and in these several cases the perusal of the plaintiff's statement of claim is also to be allowed unless the solicitor has been previously allowed such perusal .. 1. 1. 0. 5.04
107. Or per folio 6. .12
108. Of notice to produce on trial or hearing of action, and notice to admit by the solicitor of the party served 1. 1. 0. 5.04
109. Or if to admit facts per folio 1. 6. .36

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110. Of affidavit in answer to interrogatories by the solicitor of the party interrogating, and of other special affidavits by the solicitor of the party against whom the same can be read, per folio 6. .12
111. Of a petition in a pending cause or matter by the solicitor of the party to whom the same is delivered, such sum (if any) as the Taxing Officer may in his discretion think reasonable.

Attendances

112. At the Registry (clerk's attendance) 6. 8. 1.60
113. On the Registrar in chambers at the rate per hour or part thereof (to be increased at the discretion of the Taxing Officer) 1. 1. 0. 5.04
114. On an opposite party, if necessary and proper, the like as under the preceding items.
115. On a Judge in chambers at the rate per hour or part thereof (to be increased at the discretion of the Taxing Officer) 1. 11. 6. 7.56
116. In Court where matter listed but not reached, on any day for each hour or part thereof necessarily and justifiably spent. 1. 1. 0. 5.04
117. Attendance on receipt of letter or telegram 5. 0. 1.20
118. Attendance on receipt of formal acknowledgment 3. 4. .80
119. Other merely formal attendances including attendances to file, to swear affidavits or to bespeak copies 6. 8. 1.60
120. Attendances not purely formal and including attendances on witnesses and others to obtain statements and other materials for brief on trial or for use at trial but not including attendances to represent parties at hearing in Court or Chambers; such fee as may be reasonable according to circumstances with a minimum fee of in respect of each hour or part thereof 1. 1. 0. 5.04
121. Attendance to inspect or produce pursuant to notice per hour or part thereof 1. 1. 0. 5.04
122. Attendance before a Registrar in chambers on taxation matters for each hour or part thereof 1. 1. 0. 5.04
123. Attending at hearing as solicitor of any cause or matter in Court, or on motion of course, or on examination of witness before any examiner, commissioner, officer or other person, for each day as may be necessary

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	such sum as may, in the opinion of the Taxing Officer be reasonable not being less than	3.	3.	0.	15.12
124.	Attending Court to hear reserved judgment per hour	1.	1.	0.	5.04
125.	Attendance upon a shorthand writer to obtain copy of transcript for appellate purposes	10.	6.		2.52
126.	Attending to issue writ of execution ..	10.	6.		2.52
127.	Any attendance not specifically provided for	7.	6.		1.80
128.	Journeys necessarily undertaken. An allowance for the time necessarily occupied on the journey and, in the case of a journey to attend the trial, to include an allowance for the time which, in the opinion of the Taxing Officer, a legal representative is necessarily detained at the place of trial. Such sum per day, including Sundays, as the Taxing Officer may think reasonable, not to exceed	5.	5.	0.	25.20
	Disbursements for fares, hotel and transport expenses are also to be allowed, but not for normal out of pocket expenses other than board and lodging.				
	The disbursement allowed for travelling by motor car shall be at the rate of 1s. per mile provided the total distance travelled exceeds three miles. For journeys under three miles no allowance shall be made for travelling by motor car.				
129.	Agency correspondence if shown to the satisfaction of the Taxing Officer that such correspondence has been necessary and reasonable, such fees as the Taxing Officer shall think fit, having regard to the circumstances of the case and the allowances herein specified.				
130.	On deponents being sworn, or by a solicitor or his clerk to be sworn, to an affidavit in answer to interrogatories or other special affidavit	10.	6.		2.52
131.	On Counsel with brief or other papers, if Counsel's fee under five guineas	10.	6.		2.52
132.	If five guineas and under twenty guineas ..	15.	0.		3.60
133.	If twenty guineas	1.	1.	0.	5.04
134.	If forty guineas or more	2.	2.	0.	10.08
135.	On consultation or conference with Counsel ..	1.	1.	0.	5.04
136.	To enter or set down action, special case, or appeal, for hearing or trial	6.	8.		1.60

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137. To deliver papers (when required) for the use of a Judge prior to a hearing	10.	6.	2.52
138. To obtain or give an undertaking to appear	10.	6.	2.52
139. On printer to insert advertisement in Gazette	10.	6.	2.52
140. On printer to insert same in other papers, each printer	10.	6.	2.52
141. On Registrar to certify that a cause set down is settled or for any reason not to come into the list for hearing	10.	6.	2.52
142. For an order and to get same entered	10.	6.	2.52
143. For preparing and drawing up an order made at Chambers and attending for same, and to get same entered	1.	1.	0.
144. And for engrossing every such order, per folio		6.	.12
145. To examine an abstract of title with deeds, per hour, in a cause or matter	1.	1.	0.
			5.04

Letters

146. For drawing letters, messages, etc. Such fee including letters not otherwise allowed between party and party as the Taxing Officer may consider reasonable not exceeding	10.	6.	2.52
147. In addition to the above an allowance is to be made for the necessary expense of postages, carriage and transmission of documents.			

Disbursements

148. All Court fees, Counsel's fees and other fees and payments which, in the opinion of the Taxing Officer have been properly paid, shall be allowed.

Maps, Plans and Models

149. The Taxing Officer may allow such fees for maps, plans and models for use at the trial or hearing as he considers reasonable.

Marshal, Sheriff and Bailiff's Fees

150. There shall be paid to Sheriffs, Marshals and Bailiffs, such fees and travelling and subsistence allowances as are by Territorial law prescribed for the service or execution of any summons, warrant, writ, or other process of the Supreme Court of the Territory in which the execution or service is sought to be levied or effected.

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APPENDIX D

*Witnesses', Interpreters', Special Commissioners' and
Examiners' Fees
Under Order XXXIV, Rules 3 and 4
Subsistence Allowances payable to Witnesses*

1. Subject to the provisions herein, a subsistence allowance shall be paid to a witness at the following rate—

- (a) in the case of a professional man or a person who is earning at a rate in excess of £1,000 (or (\$4,800.00) per annum, £1. 1s. 0d. per hour but not exceeding £3. 3s. 0d. (or \$15.12) per day;
- (b) unskilled workers, labourers or persons of similar class 12s. 6d. (or \$3.00) per day;
- (c) other persons including clerks, artisans and persons of similar class, not exceeding \$5.00 per day.

2. No allowance shall be paid in any criminal proceeding to a witness who is an officer in the public service of the Federation or a Territory other than an hourly or daily paid employee.

3. A subsistence allowance shall only be paid to a witness in respect of the period during which he is necessarily detained and which is reasonably spent in travelling to and from the place where the Court is sitting.

4. No additional subsistence allowance shall be payable to a witness who gives evidence in more than one case on the same day.

5. By order of the Court a qualifying fee may be allowed to a witness in a proper case at the same rate as would be allowed to him for attending the Court.

Remuneration to Interpreters

6. Interpreters shall be paid at the rate prescribed by the rules of the Supreme Court of the Territory where the Court is sitting.

No remuneration will be paid in any criminal proceeding to an interpreter who is a member of the Federal or Territorial Public Services.

The Registrar may increase the scales of remuneration prescribed herein if, in his opinion, strict adherence to such scales would cause undue hardship.

*Travelling Allowances payable to Witnesses, Special
Commissioners and Assessors*

7. Subject to the provisions herein, a witness, special commissioner or assessor who travels by air, rail or other public conveyance shall be entitled to a refund of the actual fare paid by him.

8. If the journey cannot be reasonably performed by air, rail or other public conveyance, a witness, special commissioner or assessor may use his own mode of transport and, in such case, shall be paid a travelling allowance at the following rate—

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- (a) if motor transport is used, 1s. 0d. per mile or part thereof;
 - (b) if motor-cycle transport is used, 4d. per mile or part thereof;
 - (c) if cycle transport is used, 2d. per mile or part thereof.
9. If a witness, special commissioner or assessor conveys another person who is a witness, special commissioner or assessor in or on his own conveyance, the rate of allowance payable to him in terms of paragraph 2 shall be increased by an additional 2d. per mile or part thereof in respect of each person so conveyed.
10. A witness, special commissioner or assessor who travels in or on the conveyance of another person who is a witness, special commissioner or assessor shall not be entitled to any travelling allowance.
11. No travelling allowance shall be paid to a witness, special commissioner or assessor who resides within two miles of the place at which the Court is sitting.
12. When two or more modes or routes of travelling are reasonably available to a witness, special commissioner or assessor the travelling allowance payable to such person shall be at the rate for travelling by the mode or route which entails the least cost.
13. When a witness, special commissioner or assessor travels by rail, the travelling allowance payable to him shall be for travel by such class as he might reasonably be expected to travel.

Remuneration of Special Commissioners and Assessors

14. A special commissioner or assessor shall be remunerated at the rate of £1. 1s. (\$5.04) per hour or part thereof, but his remuneration shall not exceed £5. 5s. (\$25.20) per day.

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THE FEDERAL SUPREME COURT (APPEAL) RULES, 1958

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FEDERAL SUPREME COURT (APPEAL) RULES—O. I.

S.I. 6/1958. **RULES** made by the Chief Justice under articles 85 and 110 of the Constitution of The West Indies.

<i>Date of making</i>	.. ..	17th February, 1958
<i>Commencement</i>	.. ..	17th February, 1958

ORDER I

PRELIMINARY

Short title. 1. The following Rules may be cited as the Federal Supreme Court (Appeal) Rules, 1958.

Definitions

Definitions. 2. (1) In these Rules, unless it is expressly provided or the context otherwise requires—

“appellant” means the party appealing from a judgment, sentence or order and includes his legal representative;

“Attorney-General” means the Attorney-General of the Territory from which the appeal is brought;

“Chief Justice” means the Chief Justice of The West Indies.

“Court” means the Federal Supreme Court of The West Indies;

“Court below” means the court from which the appeal is brought;

“deputy registrar” means any person appointed as such under the Regulations;

“existing” means existing immediately before the commencement of these Rules;

“file” means file in a Registry, and “filed” and “filing” have corresponding meanings;

“Government Gazette” means, in relation to a Territory, the Gazette published by the authority of the Government of that Territory and includes any supplement thereto and any Gazette Extraordinary so published;

“Judge” includes the presiding officer of any court from which an appeal lies to the Court;

“legal representative” means any barrister, advocate, solicitor, attorney or legal practitioner admitted to practise as such in any part of the Federation whether or not he has the right of audience in the Court;

“Magistrate” includes every person exercising jurisdiction, whether full or limited, in a court of summary jurisdiction under the laws of a Territory;

“order” includes decree, judgment, sentence or decision of a court below or a judge thereof;

“party” means any party to the appeal and includes his legal representative;

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“Prison Authority” means the head or person in charge of Her Majesty’s Prisons in the Territory from which the appeal is brought and includes his deputy or other officer discharging his duties;

“proper officer of the Court below” means the Registrar of the court from whose order the appeal is brought;

“record” means the aggregate of papers relating to an appeal (including the pleadings, proceedings, evidence and judgments) and required by these Rules to be filed or laid before the Court on the hearing of the appeal;

“Registrar” means the Registrar of the Federal Supreme Court and includes a deputy registrar or other officer for the time being discharging the duties of the Registrar or deputy-registrar;

“the Regulations” means the Federal Supreme Court Regulations, 1958.

“respondent” (a) in a civil appeal means any party (other than the appellant) directly affected by the appeal;

(b) in a criminal appeal where the Crown is not an appellant, means the person who under the provisions of the Regulations has the duty of appearing for the Crown or who undertakes the defence of the appeal.

(2) (a) The expressions interpreted in article 116 of the Constitution shall have the same meaning when used in these Rules.

(b) The Interpretation Regulations, 1958, shall apply to the interpretation of these Rules as it applies to the interpretation of an Act as defined in those Regulations.

Appeals Generally

3. The forms set out in Appendices A and C to these Rules, or forms as near thereto as circumstances permit, shall be used in all cases to which such forms are applicable.

4. (1) Sittings of the Court shall be held at such times as the Chief Justice may direct; subject to such directions, sittings (to be known as “general sittings”) shall be held for the disposal of the appeals pending from each Territory four times a year as follows:—

- 1st October to 21st December;
- 11th January to 31st March;
- 1st April to 31st May;
- 7th June to 31st July.

(2) (a) The Court will be in vacation during the period between the ending of one general sitting and the commencement of another and between the Wednesday before and the Tuesday after Easter.

FEDERAL SUPREME COURT (APPEAL) RULES—O. I.

(b) The Court will not sit on Sundays and will not sit in any Territory on days that are public holidays in that Territory, and on such other days as the Chief Justice may direct.

Notice of sittings.

5. (1) Notice of each general sitting shall be published by the Registrar of the Court in the Government Gazette of the Territory in which each appeal arose at least two weeks before the date appointed for the sitting; and, in the case of other sittings (to be known as "special sittings"), a similar notice shall be so published at least one week before the date appointed for the sitting:

(2) The deputy registrar shall on the publication of the said notices in the Gazette post up on the notice board of the Court the cause list of the sittings.

Provided that the Court may in its discretion hear any appeal and deal with any other matter whether or not the same has been included in such cause list so published.

(3) This rule shall not apply to the hearing of any matter by a single judge.

Right of audience.

6. In all proceedings before the Court, the parties may appear in person or be represented on appeal by any person—

(a) who might have had a right of audience in the proceedings before the superior court from whose order the appeal is brought, or

(b) is a member of one of the Inns of Court and has the right of audience before a superior court of a Territory.

Register of appeals brought.

7. (1) The Registrar and the deputy registrar in each Territory shall keep separate registers of all civil and criminal appeals brought before the Court including in the criminal appeal register notices of application for leave to appeal.

(2) Each register shall contain particulars of the date on which—

(a) the notice of appeal or of leave to appeal was lodged;

(b) any interlocutory order was made;

(c) the record of the appeal was received;

(d) the appeal was heard;

(e) judgment was delivered.

Enlarge-ment of time and departure from Rules. regulation 28(3).

8. Subject to the provisions of regulation 28(3) of the Regulations (relating to the time within which an appeal may be brought in a capital case to the Court), and to Order II rule 3(3) of these Rules, the Court may enlarge the time prescribed by these Rules for the doing of anything to which these Rules apply, or may direct a departure from these Rules in any other way where this is required in the interests of justice.

Service of documents.

9. Subject to any provision contained in these Rules relating to the service of any particular document—

(1) Service of the documents mentioned in the first column hereunder shall be served by leaving a true copy thereof in the manner specified in the second column:—

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Column 1

Column 2

(a) All documents required to be served—

(i) on parties to an action who have not filed an address for service; and

(ii) on a person not a party to the appeal.

(b) All documents required to be served on parties who have an address for service.

by personal service on the party or his authorised agent, or on the person not a party.

by leaving the document at the address for service with a person resident at or belonging to such place; or by registered post to such address, in which case, the time of service thereon shall be the time such document would be delivered in the ordinary course of post.

(2) If it be made to appear to a judge of the Court below upon application supported by affidavit that prompt personal service of a document cannot be effected he may make such order for substituted service by advertisement or otherwise as may be just.

Waiver for non-compliance

10. Non-compliance on the part of an appellant in any criminal cause or matter with these Rules or with any rule of practice for the time being in force shall not prevent the further prosecution of his appeal if the Court considers that such non-compliance was not wilful, and that it is in the interests of justice that non-compliance be waived. The Court may, in such manner as it thinks right, direct the appellant to remedy such non-compliance, and thereupon the appeal shall proceed. The Registrar shall forthwith notify the appellant of any directions given by the Court under this rule where the appellant was not present at the time when such directions were given.

Waiver for non-compliance with Rules in criminal causes and matters.

ORDER II

CIVIL APPEALS

Notices of appeal, cross-appeal and preliminary objection

1. (1) All appeals shall be by way of rehearing and shall be brought by notice (hereinafter called "the notice of appeal"), to be filed together with two copies thereof with the deputy registrar, which shall set forth the grounds of appeal, state whether the whole or part only of the decision of the Court below is complained of (in the latter case specifying such part), state also the nature of the relief sought and the names and addresses of all parties directly affected by the appeal, and be signed by the appellant or his legal representative.

Notice and grounds of appeal. Civil Form 1.

(2) If the grounds of appeal allege misdirection or error in law particulars of the misdirection or error shall be clearly stated.

FEDERAL SUPREME COURT (APPEAL) RULES—O. II.

(3) The grounds of appeal shall set out concisely and under distinct heads the grounds upon which the appellant intends to rely at the hearing of the appeal without any argument or narrative and shall be numbered consecutively.

(4) No ground which is vague or general in terms or which discloses no reasonable ground of appeal shall be permitted, save the general ground that the judgment is against the weight of the evidence, and any ground of appeal or any part thereof which is not permitted under this rule may be struck out by the Court of its own motion or on application by the respondent.

(5) The appellant shall not without the leave of the Court urge or be heard in support of any ground of objection not mentioned in the notice of appeal, but the Court may in its discretion allow the appellant to amend the grounds of appeal upon payment of the fees prescribed for making such amendment and upon such terms as the Court may deem just.

(6) Notwithstanding the foregoing provisions the Court in deciding the appeal shall not be confined to the grounds set forth by the appellant.

Provided that the Court shall not rest its decision on any ground not set forth by the appellant unless the respondent has had sufficient opportunity of contesting the case on that ground.

(7) The deputy registrar shall send one copy of the notice of appeal to the Registrar and the other copy to the Registrar of the Court below.

Appeal by
leave only.
Civil Form
2.

2. (1) Where an appeal lies by leave only any person desiring to appeal shall apply to the Court by notice of motion for leave within fourteen days from the date of the decision against which leave to appeal is sought.

(2) If leave is granted the appellant shall file a notice of appeal as provided by rule 1 of this Order within fourteen days from the grant of leave.

Time limits
for appeal-
ing.

3. (1) Subject to the provisions of this rule, no appeal shall be brought after the expiration of six weeks from the date of judgment delivered or order made, against which the appeal is brought, provided that in the case of an appeal—

(a) against an interlocutory order or judgment the period shall be fourteen days; and

(b) against an order or judgment made in the matter of the winding up of a Company, or in a matter of any bankruptcy, the period shall be twenty-one days.

(2) An appeal shall be deemed to have been brought when the notice of appeal has been filed in the Registry of the Court below.

Extension
of time for
appealing.

(3) No application for enlargement of time in which to appeal shall be made after the expiration of one month from the expiration of the time prescribed within which an appeal may be brought. Every such application shall be made by summons supported by an affidavit

FEDERAL SUPREME COURT (APPEAL) RULES—O. II.

setting forth good and substantial reasons for the application and by grounds of appeal which prima facie show good cause for leave to be granted.

(4) When time is so enlarged a copy of the order granting such enlargement shall be annexed to the notice of appeal.

4. (1) A true copy of the notice of appeal shall be served upon Service of all parties directly affected by the appeal and it shall not be necessary notice of to serve any party not so affected; but the Court may direct notice of appeal to be served on all or any parties to the action or other proceeding, or upon any person not a party and in the meantime may postpone or adjourn the hearing of the appeal upon such terms as may be just, and may give such judgment and make such order as might have been given or made if the persons served with such notice had been originally parties.

(2) A true copy of the notice shall be served upon the respondent within seven days after the original notice has been filed.

5. (1) It shall not, under any circumstances, be necessary for a Notice by respondent to give notice of motion by way of cross-appeal, but if a respondent intends, upon the hearing of an appeal, to contend that the decision of the Court below should be varied, he shall, within fourteen judgment days after service of the notice of appeal, or within such time as may should be prescribed by special order made on application, give written notice varied. of such intention to any parties who may be affected by such contention, Civil Form 3. and in such notice shall clearly state the reason on which he intends to rely, and within the same period he shall file a copy of such notice with the deputy registrar.

(2) A copy of such notice shall be included in the record but if the record has already been filed, the prescribed number of copies shall be prepared forthwith and left with the deputy registrar by the appellant for transmission to the Judges and the Registrar.

(3) The omission to give notice shall not diminish the powers conferred by the Regulations upon the Court but may, in the discretion of the Court, be a ground for an adjournment of the appeal, or for any special order as to costs.

6. (1) A notice of appeal or respondent's notice may be amended— Amendment of notice of appeal and respondent's notice.
(a) by or with the leave of the Court, at any time;
(b) without such leave, by supplementary notice served, before the date on which the appeal appears in the cause list published in accordance with Order I rule 5 upon each of the parties upon whom the notice to be amended was served.

(2) A party by whom a supplementary notice is served under this rule shall, within two days after service of the notice, furnish two copies of the notice to the proper officer as defined by Order I rule 2 (1).

FEDERAL SUPREME COURT (APPEAL) RULES—O. II.

Notice of preliminary objection to be filed. Civil Form 4. 7. (1) A respondent intending to rely upon a preliminary objection to the hearing of the appeal shall give the appellant three clear days' notice thereof before the hearing setting out the grounds of objection and shall file such notice together with four copies thereof with the Registrar within the same time.

(2) If the respondent fails to comply with this rule the Court may refuse to entertain the objection or may adjourn the hearing thereof at the cost of the respondent or may make such other order as it thinks fit.

The Record

Settling record of appeal. Civil Form 5. 8. (1) The Registrar of the Court below shall upon an appeal being brought summon the parties before him to settle the documents (which expression shall include any other matter which may form part of a record) to be included in the record and shall, whether any of the parties attend the appointment or not, settle and sign and in due course file a list of such documents.

(2) The said Registrar, as well as the parties, shall endeavour to exclude from the record all documents (more particularly such as are merely formal) that are not relevant to the subject matter of the appeal and generally to reduce the bulk of the record as far as practicable, taking special care to avoid duplication of documents and unnecessary repetition of headings and other merely formal parts of documents; but the documents omitted to be copied shall be enumerated in a list at the end of the record.

(3) If the said Registrar or any party objects to the inclusion of a document on the ground that it is unnecessary or irrelevant and the other party nevertheless insists upon its being included, the document shall be included and the record shall, with a view to the subsequent adjustment of the costs of and incidental to the inclusion of such document, indicate in the index of papers or otherwise the fact that, and the party by whom, the inclusion of the document was objected.

Evidence. 9. When any question of fact is involved in an appeal, the evidence taken in the Court below bearing on such question shall, subject to any special order of the Court, be brought before the Court as follows:—

- (a) as to any evidence taken by affidavit, by the production of office copies of such affidavit;
- (b) as to evidence taken orally, by the production of a copy of the Judge's notes certified by the Registrar of the Court below, or a transcript of the evidence taken by a shorthand writer and certified by him, or such other materials as the Court may deem expedient.

Notes of evidence, etc. 10. (1) Where any notes of proceedings whether in shorthand or long hand have been taken by a person employed by any court or taken by the Judge of the Court below, copies of such parts of these notes as are required for the record of appeal shall be supplied by the Registrar of the Court below on payment of the fees prescribed in Appendix B.

FEDERAL SUPREME COURT (APPEAL) RULES—O. II.

(2) If no written decision is given by the Judge at the time of giving judgment such Judge shall communicate his reasons for the judgment in writing to the Registrar of the Court below and such reasons shall be included in the record.

(3) On hearing of an appeal the Court shall have power, if the notes of the Judge of the Court below or a transcript of the evidence are not produced, or if there are no such notes or transcript, to hear and determine such appeal upon any other evidence or statement of what occurred before such Judge which the Court may deem sufficient.

11. (1) Every document or paper required by these Rules to be filed or left with the Registrar shall be legibly printed, cyclostyled or type-written with black ink (excluding carbon copies) upon strong white foolscap paper of good quality with an inner margin of not less than two inches and an outer margin of about half-an-inch, and a space of not less than three-eighths of an inch shall be left between every two lines. Printing or typing of record.

(2) There shall be an index to the record and every page thereof shall be numbered consecutively, and every tenth line on a page shall be numbered in the margin. Correspondence and exhibits shall be arranged together at the end of the record.

(3) The Registrar may refuse to file or receive any document not strictly conforming to the requirements of sub-rule (1) of this rule and the Court may disallow the costs of any such document which has been filed or received by the Registrar.

12. (1) Any party may apply for and, on payment of the prescribed fee, obtain an office copy of the exhibits for the purpose of an appeal to the Court or otherwise. Copy of list of exhibits.

(2) All original documents tendered in evidence to the Court below at trial shall remain in the custody of the Court below until the record of appeal has been prepared, and shall then be forwarded with the record to the deputy registrar in the Territory in which the appeal is to be heard and shall remain in the custody of the Court until the determination of the appeal:

Provided that the deputy registrar shall permit a party for the purposes of preparing his record to take copies of all such documents and that the Court or Registrar may allow the return of any document to any party pending the hearing of the appeal and subject to such conditions as it or he may impose.

13. (1) The appellant shall within six weeks from the date when the appeal is brought or within such extended time as may be granted by the Court below or the Court—

(i) file in the office of the deputy registrar—

(a) the record;

(b) an affidavit of service of the notice of appeal; and

(ii) leave four copies of the record for the use of the Judges and the Registrar of the Court.

Civil Form
6.

FEDERAL SUPREME COURT (APPEAL) RULES—C. 11.

Fixture of
sittings.
Civil Form
7.

Trans-
mission
of the
record.
Civil Form
8.

(2) The deputy registrar shall thereupon give notice in Form 7 to the respondent of the filing of the record.

(3) The deputy-registrar shall thereupon forthwith—

(a) send the four copies of the record to the Registrar for the use of the Judges of the Court and the Registrar;

(b) cause to be served on all parties mentioned in the notice of appeal a notice that the record has been forwarded to the Registrar;

(c) send to the Registrar four copies of any notice or other document received by him after transmitting the record.

(4) The Registrar upon receiving the record shall set down the appeal for hearing by entering the same on the proper list of appeals.

Withdrawal and non-compliance

Withdrawal
of appeal.
Civil Form
9.
Civil Form
10.

14. Subject to the provisions of rule 5 of this Order, if the appellant files with the Registrar a notice of withdrawal of his appeal the Registrar shall certify that fact to the Court, which may thereupon order that the appeal be dismissed with or without costs. The appellant at the same time shall serve copies of the notice of withdrawal on all or any of the parties with regard to whom the appellant wishes to withdraw his appeal, and any party so served shall be precluded from laying claim to any costs incurred by him after such service unless the Court shall otherwise order.

Any party served with a notice of withdrawal may on notice to the appellant apply to the Court for an order to recover such costs as he may necessarily or reasonably have incurred prior to the service on him of the notice of withdrawal together with his costs incurred for purposes of obtaining the order and for attending upon the Court.

Default
in filing
record and
documents.

15. (1) It shall be the duty of the Registrar to see that an appellant complies with the provision of rule 13 of this Order, and before the conclusion of each general sitting shall report to the Court any failure on the part of an appellant so to comply and the Court of its own motion may make any such order as it might make upon an application by the respondent under paragraph (2) of this rule.

(2) If the respondent alleges that the appellant has failed to comply with the requirements of rule 13 (1) of this Order or any part thereof, the Court, if satisfied that the appellant has so failed, may dismiss the appeal for want of due prosecution or make such other Order as the justice of the case may require.

(3) An appellant whose appeal has been dismissed under this rule may apply by notice of motion that his appeal be restored and the Court may in its discretion for good and sufficient cause order that such appeal be restored upon such terms as it may think fit.

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Applications

16. (1) In any cause or matter pending before the Court, a single Judge of the Court may upon application make orders for—

Applica-
tions to
single
Judge.

- (a) giving security for costs to be occasioned by any appeals;
- (b) leave to appeal in forma pauperis;
- (c) a stay of execution on any judgment appealed from pending the determination of such appeal;
- (d) an injunction restraining the defendant in the action from disposing or parting with the possession of the subject matter of the appeal pending the determination thereof;
- (e) extension of time;

and may hear, determine and make orders on any other interlocutory application.

(2) Every order made by a single Judge of the Court in pursuance of this rule may be discharged or varied by any Judges of that Court having power to hear and determine the appeal.

17. Applications referred to in the preceding rule shall ordinarily be made to a Judge of the Court, but, where this may cause undue inconvenience or delay, a Judge of the superior court, from which an appeal is brought, may on application make orders in that appeal in any of the matters mentioned in paragraphs (b), (c), (d) and (e).

Applica-
tion to
Court
below.

18. (1) The following applications may be made ex parte by affidavit containing the grounds of the application and the order asked for—

Mode of
applica-
tion.

- (a) applications for leave to appeal in forma pauperis;
- (b) applications for extension of time.

(2) Any other application under these rules shall be made by way of summons or motion. Such application shall be supported by affidavit, a copy of which shall be served with the summons or notice of motion.

(3) Where an application is made ex parte under sub-rule (1) of this rule, an order may be made requiring any party affected to be served with notice of the application.

(4) Where an application under these rules is made by summons, an order may be made adjourning the hearing into open court.

(5) Where an application made by summons is heard by the Court, it shall be treated as if it were a motion, and it shall be heard in open court.

19. (1) An appeal shall not operate as a stay of execution or of proceedings under the judgment appealed from, except so far as the Court below or the Court may order, and no intermediate act or proceeding shall be invalidated, except so far as the Court may direct.

Appeal no
stay except
by order.

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(2) On an appeal, interest for such time as execution has been delayed by the appeal shall be allowed unless the Court otherwise orders, and the Registrar may compute such interest without any order for that purpose.

Applica-
tion for
security for
costs.

20. (1) Before an application for security for costs is made, a written demand shall be made by the respondent and if the demand is refused or if an offer of security be made by the appellant and not accepted by the respondent, the Court or the Court below shall in dealing with the costs of the application consider which of the parties has made the application necessary.

(2) An application for security for costs may be made at any time after the appeal has been brought and must be made promptly thereafter.

Bond.
Civil Form
11.

(3) An order for security for costs shall direct that in default of the security being given within the time limited therein, or any extension thereof, the appeal shall stand dismissed with costs.

Applica-
tion for
leave to
appeal in
forma
pauperis.

21. (1) An application for leave to appeal in forma pauperis shall be accompanied by—

(a) an affidavit stating—

(i) that the appellant is not worth \$120 or £25 excepting his wearing apparel and tools of trade and his interest in the subject matter of the intended appeal;

(ii) that his usual income from all sources does not exceed \$9.60 or £2 a week;

(b) a certificate of counsel that the appellant has reasonable ground of appeal.

(2) Where an appellant obtains leave to appeal in forma pauperis he shall not be required to lodge security for the costs of the respondent or to pay any registry fees or any fees for copies of the Judge's notes of evidence or the documents required for compiling the record.

Hearing and Judgments

Interlocu-
tory
appeals.
Number of
Judges

22. An appeal against an interlocutory order shall be heard before not less than two Judges of the Court.

Dismissal of
appeal in
default of
appearance.

23. If the appellant fails to appear when his appeal is called on for hearing the appeal may be struck out or dismissed with or without costs.

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24. When an appeal has been struck out owing to the non-appearance of the appellant the Court may, on application by the appellant by notice to the Court, if it thinks fit, and on such terms as to costs or otherwise as it may deem just, direct the appeal to be re-entered for hearing. Provided that no application under this rule shall be made after the expiration of twenty-one days from the date of the judgment or order sought to be set aside.

25. If the respondent fails to appear when the appeal is called on for hearing the Court may proceed to hear the appeal ex parte.

Non-appearance of respondent.

26. (1) Where an appeal has been heard ex parte under rule 25 of this Order and any judgment has been given therein adverse to the respondent he may apply by motion to the Court to set aside such judgment and re-hear the appeal and the Court may, if it thinks fit, and on such terms as to costs or otherwise as it may deem just, direct the appeal to be re-entered for hearing.

Application to set aside ex parte judgment.

(2) No application to set aside any judgment or order and re-hear the appeal under this rule shall be made after the expiration of twenty-one days from the date of the judgment or order sought to be set aside.

(3) Any such application shall be by motion accompanied by an affidavit setting forth the reasons and grounds for the application and the Court may thereupon in its discretion set aside the judgment or order and order that the appeal be re-heard at such time and upon such conditions as to costs or otherwise as it may think fit.

27. Subject to the provisions of paragraph (5) of article 85 of the Constitution, the judgments of the Court shall normally be delivered in the Territory where the appeal was heard by the judges who heard the same, but if one or more judges of the Court are not prepared or otherwise unable to deliver judgment before the conclusion of the sitting—

Delivery of judgment.

- (a) judgment may be delivered at a later sitting of the Court in the same or some other Territory; and
- (b) a judge may transmit to the Registrar or deputy-registrar his written judgment which may be read by any judge of the Court at a sitting of the Court.

28. When the Court directs any judgment to be enforced by another Court, a certificate under the seal of the Court and the hand of the presiding Judge setting forth the judgment shall be transmitted by the Registrar to such other Court, and the latter shall enforce such judgment in terms of the certificate.

Execution of judgment by Court below.

Civil Form 12.

Fees and Costs

29. (1) Save as hereinafter provided, the fees prescribed in Appendix B shall be charged in respect of the matters to which they are respectively assigned. The fees chargeable under Part I of Appendix B shall be paid to the deputy registrar and those chargeable under Part II shall be paid to the Registrar of the Court below.

Government of
Federation
or Territory
exempted
from pay-
ment of
fees.

(a) any civil or criminal appeal to which the Federation or a Territory or any person so suing or being sued is a party; or

Legal practitioners' fees.

30. (1) Subject to the provisions of this rule, a Taxing Officer, when taxing the fees for professional legal services shall—

(2) In taxing party and party costs, the Taxing Officer shall also, unless the court when awarding costs orders otherwise, allow—

Provided that he may disallow the fee of more than one counsel in unopposed matters and in matters in which counsel has not appeared on the other side;

(b) in any matter which does not conclude upon the first day, reasonable refreshers for each day subsequent to the first:

(c) junior counsel's fee on the basis of two-thirds of the fee allowed to leading counsel (excluding travelling expenses and any special fee allowed to leading counsel) where fees to leading and junior counsel are allowed.

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31. The fees to be charged for interpreters, witnesses, special commissioners and examiners shall be those set forth in Part IV of Appendix B. Fees not chargeable under rules 29 and 30.

32. (1) Where the costs of an appeal are allowed they may either be fixed by the Court at the time when the judgment is given or may be ordered to be taxed. Taxation of Costs.

(2) The Registrar of such deputy registrar as the Registrar by general or special direction shall nominate shall be the Taxing Officer. Civil Form 13.

(3) Any party who may be dissatisfied with the allowance or disallowance by the Taxing Officer, in any bill of costs taxed by him, of the whole or any part of any items, may, at any time before the certificate or allocatur is signed, or such earlier time as may in any case be fixed by the Taxing Officer, deliver to the other party interested therein, and carry in before the Taxing Officer, an objection in writing to such allowance or disallowance, specifying therein by a list, in a short and concise form the items or parts thereof objected to, and the grounds and reasons for such objections and may thereupon apply to the Taxing Officer to review the taxation in respect of the same. The Taxing Officer may, if he shall think fit, issue pending the consideration of such objections a certificate of taxation or allocatur for or on account of the remainder of the bill of costs and such further certificate or allocatur as may be necessary shall be issued by the Taxing Officer after his decision upon such objections. Objections to taxation.

(4) Upon such application the Taxing Officer shall reconsider and review his taxation upon such objections, and he may, if he shall think fit, receive further evidence in respect thereof, and, if so required by either party, he shall state either in his certificate of taxation or allocatur, or by reference to such objection, the grounds and reasons of his decision thereon, and any special facts or circumstances relating thereto. The Taxing Officer may tax the costs of such objections and add them to or deduct them from any sum payable by or to any party to the taxation. Review of taxation by Taxing Officer.

(5) Any person aggrieved by any order, decision or ruling of the Taxing Officer may apply to the Court to set aside such order, decision or ruling and to make such further order as it may think fit. Appeal from Taxing Officer's decision.

(6) Any application to the Court under the foregoing sub-rule shall be by motion accompanied by an affidavit in support and notice of such motion shall be served upon the Taxing Officer and upon all parties having interest therein.

*Procedure on appeal from the Court
sitting in its original jurisdiction*

33. (1) The provisions of these rules shall apply to all appeals from the Court sitting in its original jurisdiction. Appeals from Court exercising its original jurisdiction

(2) References to the deputy-registrar shall be deemed references to the Registrar, and references to the Registrar of the Court below shall be deemed references to the deputy-registrar unless the case was

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tried in the Territory where the Registrar resides when the duties of the Deputy-Registrar in regard to appeals under this Part shall be performed by the Registrar.

(3) The forms in Appendix A to these Rules, or as near thereto as circumstances permit, shall be used in all cases to which such forms are applicable in appeals from the Court sitting in its original jurisdiction.

ORDER III

CRIMINAL APPEALS

Institution of Appeals

Obligation on appellant to fill up forms of appeal notices and answer questions thereon. Criminal Forms 1 and 2.

1. A person desiring to appeal to the Court against conviction and/or sentence shall commence his appeal by sending to the Registrar of the Court below a notice of appeal or notice of application for leave to appeal or notice of application for extension of time within which such notice shall be given, as the case may be, in the form of such notices set forth in Forms 1 or 2 in Appendix C; and, in the notice or notices so sent, shall answer the questions and comply with the requirements set forth thereon subject to the provisions of Order I rule 10. The answers to the questions which an appellant is by this rule required to make in support of his request to be present at the hearing of his appeal shall be deemed to be applications to the Court in such matter.

Judge's certificate under regulation 21(b). Criminal Form 3.

2. (1) The certificate of the Judge of the Court below under regulation 21(b) of the Regulations may be in Form 3 in Appendix C.

Judge's certificate may be given at trial without application. Criminal Form 3.

(2) The Judge of the Court below may, in any case in which he considers it desirable so to do, inform the person convicted before or sentenced by him that the case is in his opinion one fit for an appeal to the Court under regulation 21(b) of the Regulations and may give to such person a certificate to that effect in the Form 3 in Appendix C.

Notices of appeal.

3. (1) Every notice of appeal or notice of application for leave to appeal or notice of application for extension of time within which such notice shall be given shall be signed by the appellant himself, except under the provisions of sub-rules (4) and (5) of this rule.

Any other notice required or authorised to be given shall be in writing and signed by the person giving the same or by his legal representative. All notices required or authorised to be given shall be addressed to the Registrar of the Court below to be forwarded by him to the Registrar of the Court.

Service of documents on person in prison.

(2) Where an appellant or applicant is a prisoner in prison it shall be sufficient service to deliver the document at the prison to the officer in charge or person appearing to be the officer in charge thereof, who shall cause the same to be served on such prisoner.

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(3) Where an appellant or any other person authorised or required to give or send any notice of appeal or notice of any application is unable to write, he may affix his mark thereto in the presence of a witness who shall attest the same, and thereupon, such notice shall be deemed to be duly signed by such appellant. ^{Where appellant is unable to write.}

(4) Where, on the trial of a person entitled to appeal, it has been contended that he was not responsible according to law for his actions on the ground that he was insane at the time the act was done or the omission made by him, any notice required to be given and signed by the appellant himself may be given and signed by his legal representative. ^{Where the question of insanity is involved.}

(5) In the case of a body corporate where any notice or other document is required to be signed by the appellant himself, it shall be sufficient compliance therewith if such notice or other document is signed by the secretary, clerk, manager or legal representative of such body corporate. ^{Notice, etc., on behalf of corporations.}

4. An application to the Court for an extension of time within which notices may be given, shall be in the Form 2 in Appendix C. Every person making an application for such extension of time, shall send to the Registrar of the Court below together with the proper form of such application, a form duly filled up, of notice of appeal, or of notice of application for leave to appeal, appropriate to the ground or grounds upon which he desires to question his conviction or sentence, as the case may be. ^{Form 2.}

Copies of Proceedings, etc.

5. (1) The Registrar of the Court below when he has received a notice of appeal or a notice of application for leave to appeal, or a notice of application for extension of the time within which under the Regulations such notice shall be given, shall forward to the Registrar four copies of the proceedings in the Court below and if any record has been made of the summing up or direction of the Judge of the Court below, four copies thereof or if no such record has been made, a statement giving to the best of such Judge's recollection the substance of the summing up or direction. He shall also forward the original exhibits in the case as far as practicable and any original depositions, information, inquisition, plea, or other documents usually kept by him, or forming part of the record of the Court below. ^{Forwarding in Court below to Registrar.}

(2) One copy of the proceedings and one copy of the summing up shall be sent by the Registrar of the Court below to the Attorney General at the same time he complies with paragraph (1) of this rule.

(3) For the purposes of this rule copies of proceedings shall contain —

- (a) the indictment or charge and the plea,
- (b) the verdict, any evidence given thereafter, and the sentence,
- (c) notes of any particular part of the evidence or cross-examination relied on as a ground of appeal, and
- (d) such other notes of evidence as the Registrar of the Court below or the Registrar may direct to be included in the copies of proceedings.

Provided —

- (i) In capital cases copies of the notes of all the evidence shall be supplied ; and

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- (ii) Upon application by either party to an appeal a single Judge of the Court or the Court itself may direct that copies of any particular part, or the whole, of the evidence be supplied to the Court and to the Attorney General.

Records of summing up.

6. (1) Where any trial is had with a jury or assessors, and, by direction of the Judge of the Court below, notes in long hand or in short hand or type-written shall be taken of the summing up or direction of the Judge and of such parts of the proceedings as the Judge of the Court below may consider expedient, such record shall be accepted by the Court as accurate unless the Court has reason to doubt its accuracy.

(2) Where in such a trial the Judge of the Court below does not give any directions for recording any summing up or direction given by him, his statement shall be accepted as accurate unless the Court sees reason to the contrary.

Shorthand note to be certified by the writer.

(3) The shorthand writer shall sign the shorthand note taken by him of any trial or proceeding, or of any part of such trial or proceeding, and certify the same to be a complete and correct shorthand note thereof ; and such shorthand note shall be kept in such custody as the Registrar of the Court below shall, either specially or generally, direct.

Transcript to be furnished on application of Registrar.

(4) The shorthand writer shall, on being directed by the Registrar of the Court below, furnish to him for the use of the Court a transcript of the whole, or of any part, of the shorthand note taken by him of any trial or proceeding in reference to which an appellant has appealed under the Regulations.

(5) Where no notes in long hand or in short hand have been taken by direction of the Judge of the Court below of any other parts of the proceedings required for the purpose of an appeal, the Judge of the Court below shall furnish to the Registrar of the Court below his notes of the trial or such part thereof as may be required for such purpose.

Party interested may obtain transcript.

(6) On the application of a party interested in a trial or other proceeding in relation to which a person may appeal under the Regulations, the Registrar of the Court below shall direct the shorthand writer to furnish to such party, and to no other person, a transcript of the whole, or of any part of the shorthand note of any such trial or other proceedings, on payment to the Proper Officer of the Court below such fees as may be prescribed by rules of Court in the Territory from which the appeal is brought for copies of proceedings required on appeal in any criminal cause or matter.

Party interested may obtain transcript from Registrar.

(7) A party interested in an appeal under the Regulations may obtain from the Registrar of the Court below a copy of the transcript of the whole or of any part of such shorthand note as relates to the appeal on payment to the Proper Officer of the Court below such fees as may be prescribed by rules of Court in the Territory from which the appeal is brought for copies of proceedings required on appeal in any criminal cause or matter.

Definition of "party interested".

(8) For the purposes of this rule, "a party interested" shall mean the prosecutor or the person convicted, or any other person named in, or immediately affected by, any order made by the Judge of the Court below, or

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other person authorised to act on behalf of a party interested, as herein defined ; but shall not include the Attorney General, to whom a copy of such transcript shall be furnished free of charge.

(9) A transcript of the shorthand notes taken of the proceedings at the trial, or a copy of the Judge's notes of the trial, of any appellant shall not be supplied free of charge except by an order of the Court or a Judge thereof, upon an application made by an appellant or by his counsel or solicitor assigned to him under the Regulations.

Transcript of short-hand notes or Judge's notes not to be supplied free except by an order of Court.

Judge's Report

7. (1) The Registrar of the Court below shall, if in relation to any appeal the Court directs him so to do, request the Judge of the Court below to furnish him with a report in writing, giving his opinion upon the case generally or upon any point arising upon the case of the appellant, and such Judge shall furnish the same to the said Registrar.

Report of Judge of Court below.

(2) The report of the Judge shall be made to the Court, and, the said Registrar shall on request, furnish a copy thereof to the appellant and respondent, if the Court so directs.

8. When the Registrar of the Court below requests the Judge of the Court below to furnish a report under these Rules, he shall send to such Judge a copy of the notice of appeal or notice of application for leave to appeal or any other document or information which he shall consider material, or which the Court at any time shall direct him to send or with which such Judge may request to be furnished by the said Registrar, to enable such Judge to deal in his report with the appellant's case generally or with any point arising thereon.

Furnishing Judge of Court below with materials for report.

Copies of Documents for use of Appellant or Respondent

9. (1) At any time after notice of appeal or notice of application for leave to appeal has been given under the Regulations or these Rules, an appellant or respondent, or the solicitor or other person representing either of them, may obtain from the Registrar of the Court below copies of any documents (other than notes of proceedings) or exhibits in his possession under the Regulations or these Rules for the purposes of such appeals. Such copies shall be supplied by the said Registrar on payment to the proper officer of the Court below of such fee as may be prescribed by rules of Court in the Territory from which the appeal is brought for copies of proceedings required on appeal in any criminal cause or matter.

How appellant or respondent may obtain from Registrar of Court below copies of documents or exhibits.

(2) Where solicitor and counsel, or counsel only, are assigned to an appellant under the Regulations, copies of any such documents or exhibits which they or he may request the said Registrar to supply shall without charge be supplied unless the said Registrar thinks that they are not necessary for the purpose of the appeal.

Counsel and solicitor assigned to appellant may receive copies of documents and exhibits free on request.

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Appellant not legally represented may obtain copy of documents or exhibits free.

(3) Where an appellant, who is not legally represented requires from the said Registrar a copy of any such document or exhibit in his custody for the purposes of his appeal, he may obtain it free of charge, if the said Registrar thinks, under all the circumstances, it is desirable or necessary to supply the same to him.

Conduct of Prosecution and Defence

Registrar to require proper officer of Court below to furnish him with particulars etc., of trial.

10. (1) Whenever the Registrar has received a notice of appeal or a notice of application for leave to appeal, or a notice of application for an extension of time within which such notices shall be given, he shall forthwith apply to the Registrar of the Court below for the following particulars :—

- (a) Name and address of the prosecutor.
State names and addresses of counsel and/or solicitor for prosecution.
- (b) Whether appellant was defended by counsel and solicitor privately or by counsel at request of Court.
Give names and addresses of counsel and/or solicitor for appellant.

Registrar to notify Attorney General or prosecutor, if a private person, of receipt of notice of appeal.

(2) When the Registrar has received a notice of appeal or where leave to appeal is granted to any appellant, he shall —

- (a) notify the Attorney General, or
- (b) if the prosecutor is a private person, shall enquire if he intends to defend the appeal and, if the answer is in the negative, the Registrar shall so inform the Attorney General.

Prosecutor to afford all information, documents, etc., to Registrar and Attorney-General.

(3) It shall be the duty of a prosecutor, who declines to undertake the defence of an appeal, and of his counsel or solicitor, to furnish to the Registrar and the Attorney General, or either of them, any information, documents, matters and things in his possession or under his control connected with the proceedings against the appellant, which the Registrar or Attorney General may require for the purposes of their duties under the Regulations.

Legal Aid to Appellants

List of counsel and solicitors for purposes of the Regulations.

11. (1) The Registrar shall cause to be prepared in such form as he thinks most convenient for each Territory a separate list of counsel who are willing to act as counsel for appellants if and when nominated under the Regulations.

(2) The Registrar shall also cause to be prepared in such form as he thinks most convenient a list of solicitors who are willing to act as solicitors on behalf of appellants if and when nominated so to do under the Regulations.

Legal aid to be provided from such lists.

(3) When legal aid is assigned to an appellant, the Court may give such directions as to the stage of the appeal at which such legal aid shall commence and whether counsel only, or counsel and solicitor, shall be assigned or otherwise as it may think right.

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(4) The Registrar shall thereupon, subject to any special order of the Court, select from such lists or otherwise a counsel and a solicitor or a counsel only for the purpose of affording legal aid to an appellant under the directions of the Court, having regard in so doing to the place at which the appellant was tried and the counsel and solicitor, if any, who represented the appellant at his trial and the nature of the appeal.

Proceedings before a single Judge

12. (1) Where any application has been dealt with by a single Judge the Registrar shall notify to the appellant the decision in Form 4 in Appendix C. Procedure on decision of application to single Judge. In the event of such Judge refusing all or any of such applications the Registrar on notifying such refusal to the appellant shall forward to him Form 5 in Appendix C which form the appellant is hereby required to fill up and forthwith return to the Registrar. Criminal Form 4. Criminal Form 5. If the appellant does not desire to have the said application or applications determined by the Court as duly constituted for the hearing of appeals under the Regulations or does not return within five days to the Registrar Form 5 duly filled up by him the refusal of his application or applications by such Judge shall be final. If the appellant desires that his said application or applications shall be determined by the Court as duly constituted for the hearing of appeals under the Regulations and is not legally represented he may, if the Court give him leave, be present at the hearing and determination by the Court of his said application: Provided that an appellant who is legally represented shall not be entitled to be present without special leave of the Court.

(2) When an appellant duly fills up and returns within the prescribed time to the Registrar Form 5 expressing a desire to be present at the hearing and determination by the Court of the applications mentioned in this rule, such form shall be deemed to be an application by the appellant for leave to be so present. The Registrar, on receiving the said form, shall take the necessary steps for placing the said application before the Court. If the said application to be present is refused by the Court, the Registrar shall notify the appellant; and if the said application is granted, the Registrar shall notify the appellant and the officer in charge of the prison wherein the appellant is in custody, as provided by these rules. For the purpose of constituting a Court the judge who has refused any such application may sit as a member of such Court, and take part in determining such application.

(3) Except where otherwise provided in these Rules, any application to the Court may be made by the appellant or respondent, or by counsel on their behalf, orally or in writing; but in regard to such applications, if the appellant is unrepresented and is in custody and is not entitled or has not obtained leave to be present before the Court, he shall make any such application by forwarding the same in writing to the Registrar who shall take the proper steps to obtain the decision of the Court thereon. Application not specially provided for, how made.

(4) In all proceedings before a Judge under regulation 36 of the Regulations, and in all preliminary and interlocutory proceedings and applications except such as are heard before the Court, the parties thereto may be represented and appear by a solicitor alone. Solicitor's right of audience.

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Notice of application for leave to appeal. Criminal Form 1.

13. Where the Court has, on a notice of application for leave to appeal duly served and in Form I in Appendix C, given an appellant leave to appeal, it shall not be necessary for such appellant to give any notice of appeal but the notice of application for leave to appeal shall in such case be deemed to be a notice of appeal.

Suspension of Orders and Admission to Bail

Person in custody in default of payment of fine.

14. (1) Where a person has, on his conviction, been sentenced to payment of a fine, and in default of payment to imprisonment, and such person remains in custody in default of payment of the fine, he shall be deemed, for purposes of appeal, to be a person sentenced to imprisonment.

Power of Court of trial to impose recognizances.

(2) Where any person has been convicted and is thereupon sentenced to the payment of a fine, and, in default of such payment, to imprisonment, and he intimates to the Judge of the Court below that he is desirous of appealing to the Court against his conviction, such Judge may, if he thinks right so to do, order such person forthwith to enter into recognizances in such amount, and with or without sureties in such amount, as such Judge may think right, to prosecute his appeal, and, subject thereto, may order that payment of the said fine shall be made at the final determination of his said appeal, if the same be dismissed, to the Registrar of the Court below, or as the Court may then order. The recognizances under this rule shall be in Forms 6 and 7 of Appendix C.

Criminal Forms 6 and 7.

The Registrar of the Court below shall forward the recognizances of the appellant and his surety or sureties to the Registrar of the Court.

Appellant committing breach of recognizance.

Criminal Forms 8 and 9.

(3) If an appellant to whom sub-rule (2) of this rule applies does not serve in accordance with these Rules a notice of appeal or of abandonment of his appeal within fourteen days from the date of his conviction or sentence, the Registrar of the Court below shall report such omission to the Court, who may, after notice in Forms 8 and 9 in Appendix C has been given to the appellant and his sureties, if any, order an estreat of the recognizances of the appellant and his sureties, and the manner of such estreat shall be that provided for estreating recognizances under the law of the Territory from which the appeal is brought, and may issue a warrant for the apprehension of the appellant and may commit him to prison in default of payment of his fine, or may make such other order as it may think right.

Repayment of fine on success of appeal.

(4) An appellant who has been sentenced to the payment of a fine, and has paid the same or part thereof in accordance with such sentence, shall, in the event of his appeal being successful, be entitled, subject to any order of the Court, to the return of the sum or any part thereof so paid by him.

Temporary suspension of orders made on conviction as to money, awards, costs, etc.

15. (1) Where, on the conviction of a person, the Judge of the Court below makes an order condemning such person to the payment of the whole or of any part of the costs and expenses of the prosecution for the offence of which he shall be convicted out of any moneys taken from such person on his apprehension or otherwise or where such Judge lawfully makes on the conviction of any person before him any order for the payment of money by such convicted person or by any other person or any order affecting the rights or property of such convicted person the operation of such orders shall in any of such cases be suspended until the expiration of fourteen days after the day

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on which any of such orders were made. And in cases where notice of appeal or notice of application for leave to appeal is given within fourteen days from and after the date of the verdict against such person such orders shall be further suspended until the determination of the appeal against the conviction in relation to which they were made. The Court may, by order, annul any order to which this rule refers on the determination of any appeal under the Regulations or may vary such order, and such order, if annulled, shall not take effect, and, if varied, shall take effect as so varied.

The proper officer of the Court below shall keep a record of any orders to which this rule refers.

(2) Where upon the conviction of any person of any offence, the trial court orders that any disqualification, forfeiture or disability attach to such person, and notice of appeal or notice of application to appeal is given, the Federal Supreme Court may upon application suspend such disqualification, forfeiture or disability until the determination of the proceedings upon appeal.

(3) Where the Judge of the Court below makes any such order on a person convicted before him, as in this rule mentioned, he shall give such directions as he thinks right as to the retention, by any person, of any money or valuable securities belonging to the person so convicted and taken from such person on his apprehension or of any money or valuable securities at the date of his conviction in the possession of the prosecution for the period of ten days, or in the event of an appeal, until the determination thereof by the Court. The proper officer of the Court below shall keep a record of any directions given under this rule.

(4) When the Judge of the Court below on the conviction of a person before him makes any order for the payment of money by such person or by any other person upon such conviction, and, by reason of this rule, such order would otherwise be suspended, such Judge may, if he thinks right so to do, direct that the operation of such order shall not be suspended unless the person on whom such order has been made shall, in such manner and within such time as the said Judge shall direct, give security by way of undertaking or otherwise for the payment to the person in whose favour such order shall have been made of the amount therein named. Such security may be to the satisfaction of the person in whose favour the order for payment shall have been made or of any other person as such Judge shall direct.

(5) Where on a conviction any property, matters or things, the subject of the prosecution or connected therewith, are to be or may be ordered to be destroyed or forfeited under the provisions of any regulation, statute, act or other law, the destruction or forfeiture or order for destruction or forfeiture thereof shall be suspended for the period of fourteen days from and after the date on which the verdict on such indictment was returned, and in the event of an appeal under the Regulations, shall be further suspended until the determination thereof by the Court.

(6) Where, upon conviction of any person of any offence, any claim may be made or any proceedings may be taken under any regulation, statute, act or other law against such person or any other person in consequence of such conviction, such proceedings shall not be taken until after the period of fourteen days from the date on which the verdict against such person was returned nor in the event of an appeal under the Regulations to the Court until the determination thereof.

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Person
affected
may appear.

(7) Any person affected by any orders which are suspended under this rule may, with the leave of the Court, be heard on the final determination of any appeal, before any such orders are varied or annulled by the Court.

*Procedure on application for bail. Right of
Sureties. Estreat of Recognizances.*

Appellant
and surety's
recogni-
zances —
before
whom to
be taken.

16. (1) Where the Court or the Court below admits an appellant to bail pending the determination of his appeal on an application by him duly made, the said Court shall specify the amounts in which the appellant and his surety or sureties (unless the said Court directs that no surety is required) shall be bound by recognizance, and shall direct, if it thinks right so to do, before whom the recognizances of the appellant and his surety or sureties (if any) may be taken.

(2) In the event of such Court not making any special order or giving any special directions under this rule, the recognizances of the appellant and of his surety or sureties (if any) may be taken before a Magistrate or Justice of the Peace.

Form of
recogni-
zances.
Criminal
Forms 10
and 11.

(3) The recognizances provided for in this rule shall be in Forms 10 and 11 in Appendix C.

(4) The Registrar of the Court below shall forward the recognizances of the appellant and his surety or sureties to the Registrar.

Presence of
appellant
on bail at
hearing of
his appeal.

(5) An appellant who has been admitted to bail shall be personally present at each and every hearing of his appeal and at the final determination thereof. The Court may, in the event of such appellant not being present at any hearing of his appeal, if it thinks right so to do, decline to consider the appeal, and may proceed summarily to dismiss the same, and may issue a warrant for the apprehension of the appellant in Form 12 in Appendix C:

Warrant for
apprehen-
sion of
appellant on
bail.
Criminal
Form 12.

Provided that the Court may consider the appeal in his absence, or make such other order as it may think fit.

Varying
order for
bail.

(6) When an appellant is present before the Court, the Court may, on an application made by any person, or, if it thinks right so to do, without any application, make any order admitting the appellant to bail, or revoke or vary any such order previously made, or enlarge from time to time the recognizances of the appellant or of his sureties or substitute any other surety for a surety previously bound as it thinks right.

Power to
revoke
order for
bail.
Criminal
Form 12.

(7) At any time after an appellant has been released on bail, the Court or, where the appellant was released on bail by the Court before which he was convicted, the said Court may, if satisfied that it is in the interest of justice so to do, revoke the order admitting to bail, and issue a warrant in Form 12 in Appendix C for his apprehension, and order him to be committed to prison.

(8) The Court may on any breach of the recognizances of the appellant, if it thinks right so to do, order such recognizances and those of his surety or sureties to be estreated, and the manner of such estreat shall be similar to that provided under the law of the Territory from which the appeal is brought.

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Abandonment of Appeal

17. (1) An appellant at any time after he has duly served notice of appeal or of application for leave to appeal, or of application for extension of time within which such notice shall be given, may abandon his appeal by giving notice of abandonment thereof in Form 13 in Appendix C to the Registrar, and upon such notice being given the appeal shall be deemed to have been dismissed by the Court. Abandonment of appeal.
Criminal Form 13.

(2) Upon receipt of a notice of abandonment duly completed and signed or marked by the appellant or the party authorised to sign notices under rule 3 of this order, the Registrar shall give notices thereof in Form 14 in Appendix C to the respondent, the Prison Authority and the Registrar of the Court below, and in the case of an appeal against a conviction involving a sentence of death, shall in like manner give notice to the Secretary to the Governor; for the information of the Governor or the Senior Administrative Officer in charge of any Territory and the Registrar shall also return to the Registrar of the Court below any original documents and exhibits received from him. Criminal Form 14.

Determination of Appeal

18. Where, upon the trial of a person entitled to appeal against his conviction, an order of restitution of any property to any person has been made by the Judge of the Court below, the person in whose favour or against whom the order of restitution has been made, and, with the leave of the Court, any other person, shall, on the final hearing by the Court of an appeal against the conviction on which such order of restitution was made, be entitled to be heard by the Court before any order annulling or varying such order of restitution is made. Varying order of restitution of property.

19. Unless the Court direct to the contrary in cases where, in the opinion of the Court, the question is a question of law on which it would be convenient that separate judgments should be pronounced by the Judges of the Court, the judgment of the Court shall be pronounced by the presiding Judge or such other Judge of the Court hearing the appeal as he may direct, and no judgment with respect to the determination of any question shall be separately pronounced by any other member of the Court. Judgments of the Court.

20. (1) On the final determination of any appeal or of any application to the Court, the Registrar shall give to the appellant, if he be in custody and has not been present at such final determination, and to the respondent and the Prison Authority notice of such determination in Forms 15 to 18 in Appendix C. Notification of final determination of appeals.
Criminal Forms 15 to 18.

(2) In any case of an appeal in relation to a conviction involving a sentence of death, the Registrar shall on receiving the notice of appeal or of any application for leave to appeal, send copies thereof to the Secretary to the Governor for the information of the Governor or the Senior Administrative Officer in charge of any Territory and to the Prison Authority, and on the final determination of any such appeal by the Court shall forthwith notify the Notification of appeal in capital cases.

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appellant, the Secretary to the Governor for the information of the Governor or the Senior Administrative Officer in charge of any Territory, the respondent and the Prison Authority thereof.

Notification of result of appeal. Criminal Form 18. 21. (1) The Registrar at the final determination of an appeal shall notify in such manner as he thinks most convenient to the Registrar of the Court below the decision of the Court in relation thereto and also any orders or directions made or given by the Court in relation to such appeal or any matter connected therewith.

Entry of decision of Court on records. (2) The Registrar of the Court below shall on receiving the notification referred to in this rule enter the particulars thereof on the records of such Court.

Restrictions on issue of certificate on conviction. 22. The Registrar of the Court below shall not issue, under any law authorising him so to do, a certificate of conviction of any person convicted in the Court below if notice of appeal or notice of application for leave to appeal is given, until the determination or abandonment thereof.

Return of original depositions, etc. 23. Upon the final determination of an appeal for the purposes of which the Registrar has obtained from the Registrar of the Court below any original depositions, exhibits, information, inquisition, plea, or other documents usually kept by such Registrar, or forming part of the record of the Court below, the Registrar shall, where practicable, cause the same to be returned to the Registrar of the Court below.

Procedure as to Witnesses before Court and their examination before examiner.

Attendance of witness before the Court. Criminal Form 19. 24. (1) Where the Court has ordered any witness to attend and be examined before the Court an order in Form 19 in Appendix C shall be served upon such witness specifying the time and place at which to attend for such purpose.

Application to Court to hear witnesses. Criminal Form 20. (2) Such order may be made on the application, at any time, of the appellant or respondent, but if the appellant is in custody and not legally represented the application shall be made in Form 20 in Appendix C.

Order appointing examiner. (3) Where the Court orders the examination of any witness to be conducted otherwise than before the Court itself, such order shall specify the person appointed as examiner to take, and the place of taking, such examination and the witness or witnesses to be examined thereat.

Furnishing examiner with exhibits, etc., necessary for examination. (4) The Registrar shall furnish to the person appointed to take such examination any documents or exhibits and any other material relating to the said appeal as and when requested to do so. Such documents and exhibits and other material shall after the examination has been concluded be returned by the examiner, together with any depositions taken by him under this rule, to the Registrar.

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(5) When the examiner has appointed the day and time for the examination he shall request the Registrar to notify the appellant or respondent and their legal representatives, if any, and when the appellant is in prison, the Prison Authority thereof. The Registrar shall cause to be served on every witness to be examined a notice in Form 21 in Appendix C.

Notification of date of examination.
Criminal Form 21.

(6) Every witness examined before an examiner under this rule shall give his evidence upon oath to be administered by such examiner, except where any such witness if giving evidence as a witness on a trial on indictment need not be sworn.

Evidence to be taken on oath.

(7) The examination of every such witness shall be taken in the form of a deposition and unless otherwise ordered shall be taken in private. The caption in Form 22 in Appendix C shall be attached to any such deposition.

Deposition of witness—how to be taken.
Criminal Form 22.

(8) Where any witness shall receive an order or notice to attend before the Court or an examiner, the Registrar may, if it appears to him necessary so to do, pay to such witness a reasonable sum for his expenses.

Expenses of witnesses before examiner.

(9) The appellant and his legal representative (if any) and the respondent shall be entitled to be present at and take part in any examination of any witness to which this rule relates.

Presence of parties at examination of witnesses.

25. When an order of reference is made by the Court to a special commissioner, the question to be referred, and the person to whom as special commissioner the same shall be referred, shall be specified in such order. The Court may in such order, or by giving directions as and when it from time to time shall think right, specify whether the appellant or respondent or any person on their behalf may be present at any examination or investigation or at any stage thereof as may be ordered, and specify any and what powers of the Court may be delegated to such special commissioner, and may require him from time to time to make interim reports to the Court upon the question referred to him, and may, if the appellant is in custody, give leave to him to be present at any stage of such examination or investigation and give the necessary directions to the Prison Authority accordingly, and may give directions to the Registrar that copies of any report made by such special commissioner shall be furnished to the appellant and respondent.

Proceedings on reference.

Case stated under regulation 37 of the Regulations

26. (1) The Judge of the Court below shall forward any case stated by him in pursuance of regulation 37 of the Regulations to the Registrar who shall on receiving the same send a copy of such case to the appellant and respondent respectively.

Judge to forward special case to Registrar and copies to be supplied to appellant and respondent.

FEDERAL SUPREME COURT (APPEAL) RULES—O. IV.

These Rules to apply to convicted persons where case stated under regulation 37. (2) Where under the provisions of regulation 37 of the Regulations, the Judge of the Court below states a case for the consideration of the Court, the person convicted shall for the purposes of these rules be deemed to be an appellant who has appealed under regulation 21 of the Regulations, provided that in such case regulation 35(2) thereof shall not apply.

Windward Islands and Leeward Islands

Ascertainment of Territory in which Supreme Court, Windwards and Leewards exercises its criminal jurisdiction. 27. For the purposes of paragraph (2) of article 83 of the Constitution, the determination of the Supreme Court of the Windward Islands and Leeward Islands in any criminal cause or matter shall be deemed to be made in the exercise of its jurisdiction in that Territory in which is situated the Supreme Court Registry where the information or charge the subject matter of the criminal cause or matter was properly lodged.

ORDER IV

APPEALS TO PRIVY COUNCIL

Application to vary order of single judge made under regulation 54 of the Regulations. 1. (1) Any person aggrieved by the order of a single judge made in exercise of his powers under regulation 54 of the Regulations may within seven days of such order apply to the Court (consisting of three judges) to vary, discharge or reverse the order. (2) An application under this rule shall be by motion supported by affidavit a copy of which shall be served with the motion.

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APPENDIX A

CIVIL FORMS

Index of Forms

Form No.	Appeal Rules No.	Description of Form
1	Order II—r. 1 (1)	Notice of Appeal.
2	„ 2 (1)	Notice of Motion for special leave to appeal.
3	„ 5 (1)	Notice by Respondent of intention to contend that decision of Court below be varied.
4	„ 7 (1)	Notice by Respondent of intention to rely upon preliminary objection.
5	„ 8 (1)	Summons to Parties by Registrar to settle Record.
6	„ 13 (1) (i) (b)	Affidavit of Service of Notice of Appeal.
7	„ 13 (2)	Notice to Respondent of filing of Record.
8	„ 13 (3) (b)	Notice to Parties of Despatch of Record.
9	„ 14	Notice of Withdrawal of Appeal.
10	„ 14	Certificate by Registrar of Withdrawal of Appeal.
11	„ 20 (3)	Bond for Costs on Appeal.
12	„ 28	Certificate of the Order of the Court.
13	„ 32	Notice of Taxation.

FEDERAL SUPREME COURT (APPEAL) RULES

O. II, r. 1(1).

CIVIL FORM 1

IN THE FEDERAL SUPREME COURT
APPELLATE JURISDICTION

NOTICE OF APPEAL

(Territory).....

Civil Appeal No.....of 19....

Between

.....(Plaintiff/Defendant)* Appellant(s)
and

.....(Plaintiff/Defendant)* Respondent(s)

TAKE NOTICE that the (Plaintiff/Defendant) Appellant being dissatisfied with the decision/that part of the decision* more particularly stated in paragraph 2 hereof of the (Court)..... contained in the judgment/order* of

dated the day of 19...., doth hereby appeal to the Federal Supreme Court upon the grounds set out in paragraph 3 and will at the hearing of the appeal seek the relief set out in paragraph 4.

And the Appellant further states that the names and addresses of the persons directly affected by the appeal are those set out in paragraph 5.

2. [Insert here whole of part of decision of the lower Court complained of]

3. Grounds of Appeal.

(1)

(2)

(3), etc.

4. [Insert here the relief sought from the Federal Supreme Court]

5. Persons directly affected by the appeal :

Name

Address

(1)

(2)

(3), etc.

DATED thisday of19.....

.....
Appellant(s).

*Strike out words inapplicable.

If appealing against the whole decision insert "Whole decision".

FEDERAL SUPREME COURT (APPEAL) RULES

O. II, r. 2(1).

CIVIL FORM 2

IN THE FEDERAL SUPREME COURT
APPELLATE JURISDICTION

NOTICE OF MOTION FOR SPECIAL LEAVE TO APPEAL

(Territory).....

Civil Appeal No.....of 19....

Between

.....(Plaintiff/Defendant)* Appellant(s)
and

.....(Plaintiff/Defendant)* Respondent(s)

TAKE NOTICE that the Federal Supreme Court at
will be moved on theday of19....
at o'clock in the forenoon or as soon thereafter as
counsel can be heard on the hearing of an application for special leave to
appeal against the decision of the (Court).....
given on the day of19.....

AND further take notice that the grounds of this application
are :—

DATED this day of19....

.....
Applicant or his Solicitor.

To
The Registrar,
Federal Supreme Court.

And †.....

†Insert name of respondent.

*Strike out words inapplicable.

FEDERAL SUPREME COURT (APPEAL) RULES

O. II, r. 5(1).

CIVIL FORM 3

**IN THE FEDERAL SUPREME COURT
APPELLATE JURISDICTION**

**NOTICE BY RESPONDENT OF INTENTION TO CONTEND
THAT DECISION OF COURT BELOW BE VARIED**

(Territory).....

Civil Appeal No.....of 19....

Between

.....(Plaintiff/Defendant)* Appellant(s)
and

.....(Plaintiff/Defendant)* Respondent(s)

TAKE NOTICE that upon the hearing of the above appeal the Respondent herein intends to contend that the decision of the (*Court below*) dated the day of 19...., shall be varied as follows :—†

AND TAKE NOTICE that the grounds on which the Respondent intends to rely are as follows :—

- 1.
- 2.
- 3, etc.

DATED this day of 19.....

.....
(Respondent(s))

To (Appellant)
and to the Registrar.

*Strike out words inapplicable.

†State the variation which will be asked for.

FEDERAL SUPREME COURT (APPEAL) RULES

O. II, r. 7(1).

CIVIL FORM 4.

IN THE FEDERAL SUPREME COURT
APPELLATE JURISDICTION

NOTICE BY RESPONDENT OF INTENTION TO RELY UPON
PRELIMINARY OBJECTION

(Territory).....

Civil Appeal No.....of 19....

Between

.....(Plaintiff/Defendant)* Appellant(s)

and

.....(Plaintiff/Defendant)* Respondent(s)

TAKE NOTICE that the Respondent herein named intends, at the hearing of this appeal, to rely upon the following preliminary objection notice whereof is hereby given to you, viz :—

AND TAKE NOTICE that the grounds of the said objection are as follows :—

- 1.
- 2.
- 3, etc.

DATED this day of 19.....

.....
(Plaintiff/Defendant)* Respondent(s)

To the above-named (Plaintiff/Defendant)* Appellant(s).

*Strike out words inapplicable.

FEDERAL SUPREME COURT (APPEAL) RULES

O. II, r. 8(1).

CIVIL FORM 5

**IN THE FEDERAL SUPREME COURT
APPELLATE JURISDICTION**

SUMMONS TO PARTIES BY REGISTRAR TO SETTLE RECORD

(Territory).....

Civil Appeal No.....of 19....

Between

..... (Plaintiff/Defendant)* Appellant(s)

and

..... (Plaintiff/Defendant)* Respondent(s)

TAKE NOTICE that all parties concerned are required to attend
before me at the Registry of the Supreme Court at
on.....the.....day of.....19....,
at the hour of in the noon to
proceed with settling of the recorrd of appeal herein.

DATED this day of, 19....

.....
Registrar (of Court below)

To

*Strike out words inapplicable.

FEDERAL SUPREME COURT (APPEAL) RULES

O. II, r. 13(1)(i)(b).

CIVIL FORM 6

IN THE FEDERAL SUPREME COURT
APPELLATE JURISDICTION

AFFIDAVIT OF SERVICE OF NOTICE OF APPEAL

(Territory).....

Civil Appeal No.....of 19....

Between

.....(Plaintiff/Defendant)* Appellant (s)

and

.....(Plaintiff/Defendant)* Respondent (s)

I, of(occupation)
do make oath and say :—

That notice of appeal in the above appeal filed herein on the
day of 19...., was duly served upon
the Respondent herein, (*here state mode of service*)
on the day of 19...., in accordance
with the Federal Supreme Court (Appeal) Rules, 1958.

Sworn to at the
(address)
on the day of
19.....

Before me

Commissioner of Affidavits

This affidavit is filed on behalf of

*Strike out words inapplicable.

FEDERAL SUPREME COURT (APPEAL) RULES

O. II, r. 13(2).

CIVIL FORM 7

**IN THE FEDERAL SUPREME COURT
APPELLATE JURISDICTION**

NOTICE TO THE RESPONDENT OF FILING OF RECORD

(Territory).....
Civil Appeal No.....of 19....
Between
.....(Plaintiff/Defendant)* Appellant (s)
and
.....(Plaintiff/Defendant)* Respondent (s)

TAKE NOTICE that the above-named Appellant has duly filed the record and documents required to be filed pursuant to Order II rule 13(1) of the Federal Supreme Court (Appeal) Rules, 1958.

DATED this day of 19.....

.....
Registrar (of Court below)

To The Respondent, etc.

*Strike out words inapplicable.

O. II, r. 13(3) (b).

CIVIL FORM 8

**IN THE FEDERAL SUPREME COURT
APPELLATE JURISDICTION**

NOTICE TO PARTIES OF DESPATCH OF RECORD

(Territory).....
Civil Appeal No.....of 19....
Between
.....(Plaintiff/Defendant)* Appellant(s)
and
.....(Plaintiff/Defendant)* Respondent(s)

TAKE NOTICE that the record in the above-named appeal has this day been forwarded to the Registrar of the Federal Supreme Court.

DATED this day of 19.....

.....
Registrar (of Court below)

To Appellant(s)

and (Respondent(s))

*Strike out words inapplicable.

FEDERAL SUPREME COURT (APPEAL) RULES

O. II, r. 14.

CIVIL FORM 9

IN THE FEDERAL SUPREME COURT
APPELLATE JURISDICTION

NOTICE OF WITHDRAWAL OF APPEAL

(Territory).....

Civil Appeal No.....of 19....

Between

.....(Plaintiff/Defendant)* Appellant(s)

and

.....(Plaintiff/Defendant)* Respondent(s)

TAKE NOTICE that the Appellant(s) herein intend(s) and doth hereby wholly withdraw his/their appeal against (all) the Respondent(s) in the above-mentioned appeal.

DATED at this day of19.....

.....
Appellant(s)

The Registrar,
Federal Supreme Court.

And to Respondent(s)
and the Registrar of the Court below.

*Strike out words inapplicable.

FEDERAL SUPREME COURT (APPEAL) RULES

O. II, r. 14.

CIVIL FORM 10

IN THE FEDERAL SUPREME COURT
APPELLATE JURISDICTION

CERTIFICATE BY REGISTRAR OF WITHDRAWAL
OF APPEAL

(Territory).....
Civil Appeal No.....of 19....
Between
.....(Plaintiff/Defendant)* Appellant(s)
and

.....(Plaintiff/Defendant)* Respondent(s)
I HEREBY CERTIFY that the Appellant(s) in the above-mentioned
appeal has/have on the day of 19.....
filed notice of withdrawal of the appeal herein.

DATED at.....the.....day of.....19....

.....
Registrar of the Court.

*Strike out words inapplicable.

O. II, r. 20(3).

CIVIL FORM 11

IN THE FEDERAL SUPREME COURT
APPELLATE JURISDICTION

BOND FOR COSTS ON APPEAL

(Territory).....
Civil Appeal No.....of 19....
Know all men, by these presents, that we.....
..... of
and of
and of
are jointly and severally held and firmly bound to
of.....in the sum of.....dollars
of lawful money to be paid to the said

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his executors, administrators or assigns, for which payment well and truly to be made, we bind ourselves, and each of us for himself, in the whole our and every of our heirs, executors and administrators, firmly by these presents.

(Sgd.) (Appellant)

..... (Surety)

..... (Surety).

DATED the day of, in the year of Our Lord, 19....

WHEREAS a suit is now depending in the Court at wherein the above-bounden is Plaintiff and the said is Defendant ;

AND WHEREAS a judgment was given by the Court therein, on the day of for the said and the said has filed Notice of Appeal from the said judgment ;

AND WHEREAS it is by law provided that the party appealing shall give security to the satisfaction of the Registrar of the (*Court below*) for the due prosecution of the appeal and for the payment of any costs which may be ordered to be paid by the appellant.

AND WHEREAS the above-named and, at the request of the said have agreed to enter into this obligation for the purposes aforesaid :

Now the condition of this obligation is such, that if the said shall duly prosecute the appeal and if the above-bounden and any or either of them shall pay any costs which may be ordered to be paid by the appellant this obligation shall be void, otherwise remain in full force.

Signed and delivered in
the presence of

(L.S.)

(L.S.)

(L.S.)

FEDERAL SUPREME COURT (APPEAL) RULES

O. II, r. 28.

CIVIL FORM 12

IN THE FEDERAL SUPREME COURT
APPELLATE JURISDICTION

CERTIFICATE OF THE ORDER OF THE COURT

(Territory)

Civil Appeal No. of 19....

Appeal from the

of the

dated the day of 19.....

..... Motion

..... Appeal No.

..... (Plaintiff/Defendant)* Appellant(s)

v.

..... (Plaintiff/Defendant)* Respondent (s)

†.....

This appeal coming on for hearing on the day
of 19 before

in the presence of

for the Appellant(s), and

for the Respondent(s).

I HEREBY CERTIFY that an Order was made as follows :—

Given under my hand and the Seal of the Court this

day of 19.....

.....
Presiding Judge.

.....
Registrar.

*Strike out words inapplicable.

†Insert "President" or "Presiding Judge."

FEDERAL SUPREME COURT (APPEAL) RULES

O. II, r. 32.

CIVIL FORM 13

IN THE FEDERAL SUPREME COURT
APPELLATE JURISDICTION

NOTICE OF TAXATION

(Territory).....

Civil Appeal No.....of 19....

Between

.....(Plaintiff/Defendant)* Appellant (s)

and

.....(Plaintiff/Defendant)* Respondent(s)

TAKE NOTICE that the Bill of Costs of the
herein, will be taxed on the day of
19....., at the hour of o'clock in the noon.

Your absence notwithstanding.

DATED at this day of 19.....

.....
Taxing Master.

To the above-named Appellant of

and (Respondent) of

*Strike out words inapplicable.

FEDERAL SUPREME COURT (APPEAL) RULES

APPENDIX B

PART I

Fees of Court in Civil Appeals or Appeals from the Court exercising its original jurisdiction.

*To be paid to the Registrar of the Federal Supreme Court
Under Order II rule 29*

	£.	s.	d. or	\$	¢
1. On filing notice of appeal against a final judgment or decision, entering the appeal for hearing and on judgment thereunder an inclusive fee of	2.	10.	0	12.00	
2. On filing respondent's notice of intention to contend that decision of Court below be varied	1.	0.	0	4.80	
3. For entering a special case, case stated, point of law or demurrer for argument, entering same for hearing and on judgment thereunder an inclusive fee of	1.	10.	0	7.20	
4. On filing notice of appeal against an interlocutory order or decision, entering the appeal for hearing and on judgment thereunder an inclusive fee of	1.	10.	0	7.20	
5. On making any application not otherwise specifically provided for, and for filing judgment or order thereunder an inclusive fee of	1.	0.	0	4.80	
6. On filing bond to secure costs of appeal	10.	0		2.40	
7. On filing motion for leave to appeal to Privy Council	10.	0		2.40	
8. On filing every bond where the appeal is to Privy Council	10.	0		2.40	
9. On filing order for leave to appeal to Privy Council	10.	0		2.40	
10. On appointment to settle record on appeal to Privy Council	5.	0		1.20	
11. On sealing record on appeal to the Privy Council	10.	0		2.40	
12. On filing every document or exhibit for which no special fee is provided	2.	6		.60	
13. On taxation of bill of costs including certificate	10.	0		2.40	
14. On certifying any document as an office copy	5.	0		1.20	
15. If in a foreign language, the actual cost of making and examining the copy, and, in addition, for marking and sealing the copy as an office copy	5.	0		1.20	

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	£.	s.	d. or \$	¢
16. For an office copy of a plan, map, section, drawing, photograph or diagram the actual cost of making and examining the copy, and, in addition, for marking and sealing the copy as an office copy	5.	0		1.20
17. For a copy of reasons for judgment of a Justice or a Court, per folio of 100 words But with a minimum fee, for one set of reasons, of	5.	0		1.20
And with a maximum fee for one set of reasons of	5.	5.	0	25.20
18. For a copy of a report of a Registrar per folio of 100 words			6	.12
19. On persuing and allowing by a Judge or Registrar of any bond	5.	0		1.20
20. On sealing a writ of subpoena not exceeding three persons	5.	0		1.20
21. For a certificate of a Registrar for which no special fee is provided	5.	0		1.20
22. On obtaining appointment for examination of a witness before an officer of the Court or other person	5.	0		1.20
23. In respect of every witness examined by an officer or other person in his office, for each hour or part of an hour	5.	0		1.20
24. For an examination of witnesses away from the office of the examiner, the reasonable travelling and other expenses in addition to the fee chargeable under Item 23.				
25. For making every search	2.	6		.60
26. For an office copy of any document filed in the Registry, per folio of 100 words, for the first folio	1.	0		.24
For every other folio or part thereof		6		.12

PART II

*Fees payable to Court from which appeal is brought
Under Order II rule 29*

1. On office copies of any document to be included in record—including judges' notes of evidence, for the first folio to consist of 100 words	1.	0		.24
For every other folio or part thereof		6		.12

FEDERAL SUPREME COURT (APPEAL) RULES

	£.	s.	d. or \$	¢
2. On certifying any document as an office copy	5.	0		1.20
3. Transcript of shorthand writer's notes, such fee as may be determined by the Registrar				
The fees to be taken in the offices of the Sheriff, Marshal or a Deputy Marshal are the same as those which, by the practice of the Supreme Court of the Territory in which the proceeding is taken or the act is done or authorised are required to be taken by the Sheriff, Marshal or Deputy Marshal in respect of a like proceeding or act in a cause pending in that Court.				

PART III

Legal Practitioners' Fees in Civil Appeals and in Appeals from the Court exercising its original jurisdiction.

Schedule of Allowances

[Save in respect of item 19, a folio shall consist of one hundred words (or figures) or parts thereof; four figures to count as a word.]

<i>Instructions</i>	£.	s.	d. or \$	¢
1. Instructions to file notice of appeal (including grounds of appeal)	2.	2.	0	10.08
2. Instructions to file notice of cross appeal (including grounds of appeal)	2.	2.	0	10.08
3. Instructions to file any application relative to an appeal	1.	1.	0	5.04
4. Instructions to appear for the respondent to any application to an appeal	1.	1.	0	5.04
5. Instructions to file case stated or special case having regard to the amount involved in the appeal, its nature, importance and difficulty, the interest of the parties, the other costs to be allowed, the general conduct of the proceedings and all ther relevant circumstances	2.	2.	0	10.08
6. Instructions for affidavit and for any other interlocutory matter, the charge for which is not specified in these scales	10.	6		2.52
7. Instructions for brief to counsel to advise or to settle pleadings. This will be allowed where justifiable under the circumstances of the particular case	1.	1.	0	5.04

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Drawing notices of appeal and other documents

8. Drawing notice of appeal including grounds of appeal	per folio for the first 20 folios
9. Drawing notice of motion	3s. 0d. or 72¢
10. Drawing a case stated	and thereafter per folio
11. Drawing notice of cross appeal, including grounds of appeal	1s. 6d. or 36¢
12. Drawing any order	(The minimum charge under these items shall be £1. 1s. 0d or \$5.04 save that the minimum shall not apply in the case of verifying affidavits of service and other formal affidavits).
13. Drawing any petition, affidavit, any notice except a formal notice, summons, further particulars or request for further particulars	£. s. d. or \$ ¢
14. Drawing any writs of execution, arrest or attachment and any other important document not otherwise provided for .. .	3. 0 .72
15. Drawing index of record or any index to to brief	per folio
16. Drafting Instructions to Counsel with brief on any matter	
17. Drawing any subpoena or any formal notice—each document	5. 0 1.20
18. Drafting a letter or telegram	7. 6 1.80
If more than one folio, for each additional folio	1. 6 .36
Copy to keep, where necessary, per folio	6 .12
19. Drawing Bill of Costs, per folio	3. 0 .72

NOTE: A folio is to comprise 72 words, every figure comprised in a column or authorized to be used being counted as one word.

Copying

20. Copies of the record on appeal, if prepared by the appellant's attorney or solicitor, such fee for the first copy and such fee for additional copies as the Registrar may consider reasonable.
(If not prepared by the appellant's attorney or solicitor the reasonable cost of the record as a disbursement).
21. Copies of any matter required for the Court, for counsel, for the attorney or for service or for any other necessary purpose, for the first copy per folio 1. 0 .24
For each additional copy per folio 6 .12

Attendances

22. At the Registry (clerk's attendance) 6. 8 1.60

FEDERAL SUPREME COURT (APPEAL) RULES

	£.	s.	d. or	\$	¢
23. On the Registrar in chambers at the rate per hour or part thereof (to be increased at the discretion of the Taxing Officer) ..	1.	1.	0		5.04
24. On an opposite party, if necessary and proper, the like as under the preceding items.					
25. On a Judge in chambers—at the rate per hour or part thereof (to be increased at the discretion of the Taxing Officer) ..	1.	11.	6		7.56
26. In Court where matter listed but not reached, on any day for each hour or part thereof necessarily and justifiably spent	1.	1.	0		5.04
27. Attendance on receipt of letter or telegram		5.	0		1.20
28. Attendance on receipt of formal acknowledgment		3.	4		.80
29. Other merely formal attendances including attendances to file, to swear affidavits or to bespeak copies		6.	8		1.60
30. Attendances not purely formal and including attendances on witnesses and others to obtain statements and other materials for brief on trial or for use at trial but not including attendances to represent parties at hearing in Court or chambers ; such fee as may be reasonable according to circumstances with a minimum fee of in respect of each hour or part thereof ...	1.	1.	0		5.04
31. Attendance to inspect or produce pursuant to notice per hour or part thereof ..	1.	1.	0		5.04
32. Attendance before a Registrar in chambers on taxation matters for each hour or part thereof	1.	1.	0		5.04
33. Attending at hearing as solicitor of an appeal or any other matter in Court for each day as may be necessary such sum as may, in the opinion of the Taxing Officer be reasonable not being less than	3.	3.	0		15.12
34. Attending Court to hear reserved judgment per hour	1.	1.	0		5.04
35. Attendance upon a shorthand writer to obtain copy of transcript for appellate purposes	10.	6			2.52
36. Attending to issue writ of execution ..	10.	6			2.52
37. Any attendance not specifically provided for	7.	6			1.80

FEDERAL SUPREME COURT (APPEAL) RULES

- | | £. | s. | d. | or \$ | ¢ |
|--|-----|----|------|-------|---|
| 38. Journeys necessarily undertaken.
An allowance for the time necessarily occupied on the journey and, in the case of a journey to attend the trial, to include an allowance for the time which, in the opinion of the Taxing Officer, a legal representative is necessarily detained at the place of trial. Such sum per day, including Sundays, as the Taxing Officer may think reasonable, not to exceed .. | 5. | 5. | 0 | 25.20 | |
| Disbursements for fares, hotel and transport expenses are also to be allowed, but not for normal out of pocket expenses other than board and lodging.
The disbursement allowed for travelling by motor car shall be at the rate of 1s. per mile provided the total distance travelled exceeds three miles. For journeys under three miles no allowance shall be made for travelling by motor car. | | | | | |
| 39. Agency correspondence if shown to the satisfaction of the Taxing Officer that such correspondence has been necessary and reasonable. Such sums as would be allowed under items 18 or 40. | | | | | |
| 40. Letters, messages, etc. Such fee including letters not otherwise allowed between party and party as the Taxing Officer may consider reasonable not exceeding .. | 10. | 6 | 2.52 | | |
| <i>Perusals</i> | | | | | |
| 41. Perusals of any necessary documents | | | | | |
| for the first 10 folios—per folio | 2. | 0 | .48 | | |
| For each subsequent folio | 0. | 6 | .12 | | |
| <i>Disbursements</i> | | | | | |
| 42. All Court fees, counsel's fees and other fees and payments which, in the opinion of the Taxing Officer have been properly paid, shall be allowed | | | | | |
| <i>Maps, Plans and Models</i> | | | | | |
| 43. The Taxing Officer may allow such fees for maps, plans and models for use at the trial or hearing as he considers reasonable. | | | | | |
| <i>Marshal, Sheriff and Bailiff's Fees</i> | | | | | |
| 44. There shall be paid to Sheriffs, Marshals and Bailiffs, such fees and travelling and subsistence allowances as are by Terri- | | | | | |

FEDERAL SUPREME COURT (APPEAL) RULES

torial law prescribed for the service or execution of any summons, warrant, writ, or other process of the Supreme Court of the Territory in which the execution or service is sought to be levied or effected.

PART IV

Witnesses', Interpreters', Special Commissioners' and Examiners' Fees.

Under Order II, rule 41.

Subsistence Allowances payable to Witnesses.

1. Subject to the provisions of this Part, a subsistence allowance shall be paid to a witness at the following rate —
 - (a) in the case of a professional man or a person who is earning at a rate in excess of £1,000 (or \$4,800.00) per annum, £1. 1s. 0d. per hour but not exceeding £3. 3s. 0d. (or \$15.12) per day ;
 - (b) in all other cases at the rate prescribed by the rules of the Supreme Court of the Territory where the Court is sitting.
2. No allowance shall be paid in any criminal proceeding to a witness who is an officer in the public service of the Federation or a Territory other than an hourly or daily paid employee.
3. A subsistence allowance shall only be paid to a witness in respect of the period during which he is necessarily detained and which is reasonably spent in travelling to and from the place where the Court is sitting.
4. No additional subsistence allowance shall be payable to a witness who gives evidence in more than one case on the same day.
5. By order of the Court a qualifying fee may be allowed to a witness in a proper case at the same rate as would be allowed to him for attending the Court.

Remuneration of Interpreters

6. Interpreters shall be paid at the rate prescribed by the rules of the Supreme Court of the Territory where the Court is sitting.

No remuneration will be paid in any criminal proceeding to an interpreter who is a member of the Federal or Territorial Public Services.

The Registrar may increase the scales of remuneration prescribed in this Part if, in his opinion, strict adherence to such scales would cause undue hardship.

Travelling Allowances payable to witnesses, special Commissioners and Assessors

7. Subject to the provisions of this Part, a witness, special commissioner or assessor who travels by air, rail or other public conveyance shall be entitled to a refund of the actual fare paid by him.

FEDERAL SUPREME COURT (APPEAL) RULES

8. If the journey cannot be reasonably performed by air, rail or other public conveyance, a witness, special commissioner or assessor may use his own mode of transport and, in such case, shall be paid a travelling allowance at the following rate —

- (a) if motor transport is used, 1s. 0d. per mile or part thereof ;
- (b) if motor-cycle transport is used, 4d. per mile or part thereof ;
- (c) If cycle transport is used, 2d. per mile or part thereof.

9. If a witness, special commissioner or assessor conveys another person who is a witness, special commissioner or assessor in or on his own conveyance, the rate of allowance payable to him in terms of paragraph 2 shall be increased by an additional 2d. per mile or part thereof in respect of each person so conveyed.

10. A witness, special commissioner or assessor who travels in or on the conveyance of another person who is a witness, special commissioner or assessor shall not be entitled to any travelling allowance.

11. No travelling allowance shall be paid to a witness, special commissioner or assessor who resides within two miles of the place at which the Court is sitting.

12. When two or more modes or routes of travelling are reasonably available to a witness, special commissioner or assessor the travelling allowance payable to such person shall be at the rate for travelling by the mode or route which entails the least cost.

13. When a witness, special commissioner or assessor travels by rail, the travelling allowance payable to him shall be for travel by such class as he might reasonably be expected to travel.

Remuneration of Special Commissioners and Assessors.

14. A special commissioner or assessor shall be remunerated at the rate of £1. 1s. (\$5.04) per hour or part thereof, but his remuneration shall not exceed £5.5s. (\$25.20) per day.

FEDERAL SUPREME COURT (APPEAL) RULES

APPENDIX C

CRIMINAL FORMS

Index of Forms.

Form No.	Appeal Rules No.	Description of Form
1	Order III—r. 1 & 13	Notice of appeal or application for leave to appeal against conviction or sentence.
2	„ 1 & 4	Notice of application for extension of time within which to appeal.
3	„ 2 (1)	Judge's certificate.
4	„ 12	Notification to appellant of a single Judge's decision.
5	„ 12	Notice of appeal by appellant from refusal of a single Judge.
6	„ 14 (2)	Recognizance of appellant sentenced to payment of a fine.
7	„ 14 (2)	Recognizance of sureties for appellant sentenced to a fine.
8	„ 14 (3)	Notice of breach of his recognizance to appellant sentenced to a fine.
9	„ 14 (3)	Notice to surety for appellant of estreat of recognizances.
10	„ 16 (3)	Recognizance of bail of appellant.
11	„ 16 (3)	Recognizance of appellant's sureties.
12	„ 16 (5) & (7)	Warrant for arrest of appellant on bail.
13	„ 17 (1)	Notice of abandonment.
14	„ 17 (2)	Notification of abandonment of appeal.
15	„ 20 (1)	Notification to appellant of result of application.
16	„ 20 (1)	Notice to authorities of result of application.
17	„ 20 (1)	Notification to appellant of the result of his appeal.
18	„ 20 (1) & „ 21 (1)	Notice to authorities of result of appeal.
19	„ 24 (1)	Order to witness to attend court for examination.
20	„ 24 (2)	Appellant's application for further witness.
21	„ 24 (5)	Notice to witness to attend before an examiner.
22	„ 24 (7)	Caption for deposition of witness examined before examiner.

FEDERAL SUPREME COURT (APPEAL) RULES

O. III, rr. 1 & 13.

CRIMINAL FORM 1

IN THE FEDERAL SUPREME COURT
APPELLATE JURISDICTION

NOTICE OF APPEAL OR APPLICATION FOR LEAVE
TO APPEAL AGAINST CONVICTION OR SENTENCE

(Territory)

Criminal Appeal No..... of 19....

TO THE REGISTRAR OF THE FEDERAL SUPREME COURT.

Name of Appellant.....

Convicted at the (1).....held at.....

Offence of which convicted (2).....

Sentence

Date when convicted (3).....

Date when sentence passed (3).....

Name of Prison (4).....

I the above-named appellant hereby give you notice that I desire
to appeal to the Federal Supreme Court against my (5).....
on the grounds hereinafter set forth on page 2 of this notice.

(Signed) (6).....

Appellant.

Dated this (7).....day of.....A.D.....

QUESTIONS (8)

ANSWERS

1. Did the judge before whom you were tried grant
you a certificate that it was a fit case for appeal?

2. Do you desire the Federal Supreme Court to
assign you legal aid?

If your answer to this question is "Yes" then
answer the following questions:—

FEDERAL SUPREME COURT (APPEAL) RULES

CRIMINAL FORM 1 (continued)

- (a) What was your occupation and what wages, salary or income were you receiving before your conviction?
- (b) Have you any means to enable you to obtain legal aid for yourself?
3. Is any solicitor now acting for you? If so, give his name and address.
4. Do you desire to be present when the Court considers your appeal? (9)
5. Do you desire to apply for leave to call any witnesses on your appeal?
If your answer to this question is "Yes," you must also fill in Form 20 and send it with this notice.

Grounds of Appeal or Application.

- (1) Assizes, or County, City or Borough Sessions.
- (2) e.g. Larceny, Forgery, Habitual Criminal.
- (3) Set out the actual date upon which the appellant was convicted.
- (4) If not in custody here set out appellant's address in full.
- (5) If the appellant wishes to appeal against conviction he must write the word "conviction." If he wishes to appeal against sentence he must write the word "sentence." If he wishes to appeal against both conviction and sentence he must write the words "conviction" and "sentence."
- (6) This notice must be signed by the appellant. If he cannot write he must affix his mark in the presence of a witness. The name and address of such attesting witness must be given.
- (7) If this notice is signed more than ten days after conviction or sentence appealed against the appellant must also fill in Form 3 and send it with this notice.
- (8) The appellant must answer each of these questions.
- (9) An appellant is not entitled to be present on the hearing of an application for leave to appeal.

These must be filled in before the notice is sent to the Registrar. The appellant must here set out the grounds or reasons he alleges why his conviction should be quashed or his sentence reduced.

If one of the grounds set out is "misdirection" by the judge, particulars of such alleged misdirection must be set out in this notice.

The appellant can also, if he wishes, set out, in addition to his above reasons, his case and argument fully.

LAWS OF THE WEST INDIES

FEDERAL SUPREME COURT RULES

Cap. 2

201

FEDERAL SUPREME COURT (APPEAL) RULES

O. III, rr. 1 & 4.

CRIMINAL FORM 2

IN THE FEDERAL SUPREME COURT
APPELLATE JURISDICTION

NOTICE OF APPLICATION FOR EXTENSION OF
THE TIME WITHIN WHICH TO APPEAL.

(Territory)

Criminal Appeal No..... of 19....

TO THE REGISTRAR OF THE FEDERAL SUPREME COURT.

I,having
been convicted of the offence of.....

in the.....Court held
at.....on the.....
Here state
the offence
e.g., larceny,
murder,
forgery, etc.

day of....., 19...., and being now a
prisoner in Her Majesty's Prison at.....

*(or now living at.....), give
you notice that I hereby apply to the Court for an extension of time
within which I may give Notice of Appeal (or Notice of Application
for leave to Appeal) on the grounds following:—
*When
applicant
for any
reason not
in custody.

(Signed)
(or mark)

.....
Applicant.

Signature and address of
witness attesting mark

Dated this.....day of....., 19....

You are required to send to the Registrar of the Court, duly filled
up Form 1, together with this Notice.

Here set out
clearly and
concisely
the reasons
for the
delay in
giving such
notice and
the grounds
on which
you submit
the Court
should
extend the
time.

FEDERAL SUPREME COURT (APPEAL) RULES

O. III, r. 2(1).

CRIMINAL FORM 3

IN THE FEDERAL SUPREME COURT
APPELLATE JURISDICTION

JUDGE'S CERTIFICATE

(Territory)

Criminal Appeal No..... of 19....

REG. v.

In the.....Court of.....

holden at.....

WHEREAS the said.....
was tried and convicted before me, the undersigned, in the said Court

State
shortly the on the.....day of.....
offence, e.g.
larceny,
murder, on a charge of.....and
forgery,
etc. was thereupon sentenced by me to.....
.....

I DO HEREBY CERTIFY that the case is a fit case for an appeal

by the said.....
to the Court upon the following grounds:—

Here specify
in general
terms the
grounds on
which certi-
ficate
granted.

.....
Judge.

DATED this.....day of.....19....

FEDERAL SUPREME COURT (APPEAL) RULES

O., III, r. 12.

CRIMINAL FORM 4

IN THE FEDERAL SUPREME COURT
APPELLATE JURISDICTION

NOTIFICATION TO APPELLANT OF A SINGLE
JUDGE'S DECISION

(Territory)

Criminal Appeal No..... of 19....

REG. v.

I hereby give you notice that a Judge of the Federal Supreme Court having considered your application(s) for—

- (a) Leave to appeal;
- (b) For extension of time within which notice of appeal or of application for leave to appeal may be given;
- (c) Permission to be present during the hearing of any proceedings in your appeal;
- (d) Admission to bail;
- (e) Leave to withdraw abandonment of appeal;

has refused the application(s) marked.....(and has granted your application(s) marked.....).

If you desire to have the above-mentioned application(s), which have been refused, determined by the Court, you are required to fill up the enclosed form and return it to me forthwith.

DATED this.....day of....., 19....

Signed.....

Registrar,
Federal Supreme Court.

To the above-named.

FEDERAL SUPREME COURT (APPEAL) RULES

O. III, r. 12.

CRIMINAL FORM 5

**IN THE FEDERAL SUPREME COURT
APPELLATE JURISDICTION**

**NOTICE OF APPEAL BY APPELLANT FROM REFUSAL
OF A SINGLE JUDGE**

(Territory)

Criminal Appeal No..... of 19....

REG. v.

TO THE REGISTRAR OF THE FEDERAL SUPREME COURT.

I, having
received your notification that my application (s) for —

- I: "
- (a) Leave to appeal ;
 - (b) For extension of the time within which notice of appeal or applica-
tion for leave to appeal may be given ;
 - (c) Permission to me to be present during the hearing of any proceedings
in my appeal ;
 - (d) Admission to bail ;
 - (e) Leave to withdraw abandonment of appeal ;
- have been refused ;

DO HEREBY GIVE YOU NOTICE that I desire that the said
application(s) shall be considered and determined by the Court (and that as
I am not legally represented I desire to be present at the determination of my
said application(s)*)

For
signature
see Order
III rule 3.

(Signed)
(or mark)

.....
Appellant.

Signature and address of
witness attesting mark.

DATED this day of, 19

If you desire to state any reasons in addition to those set out by you in
your original notice upon which you submit that the Court should grant your
said application(s) you may do so in the space below.

*Strike out if you do not desire to be present.

FEDERAL SUPREME COURT (APPEAL) RULES

O. III, r. 14(2).

CRIMINAL FORM 6

IN THE FEDERAL SUPREME COURT
APPELLATE JURISDICTION

RECOGNIZANCE OF APPELLANT SENTENCED TO
PAYMENT OF A FINE

(Territory)

Criminal Appeal No..... of 19....

REG. v.

TO WIT : Be it remembered that whereas
of
was on the day of 19.....
convicted of and
was thereupon sentenced to pay the sum of \$. as a
fine for his said offence by the * and has intimated *Here fill
to the said Court that he desires to appeal against his said conviction on a in the
question of law alone (or upon a certificate of the Judge of the said Court Court of
that his is a fit case for appeal). And whereas the said Court considers that trial.
the said Appellant may, in lieu of payment at and upon his said conviction of
the said sum, be ordered to enter into recognizance of bail himself in the
sum of \$. and with sureties,
each in the sum of \$., to prosecute his said
appeal before the Federal Supreme Court.

This said doth hereby
acknowledge himself to owe to Our Lady the Queen the said sum of \$.
..... of good and lawful money, to be made and levied of
his goods and chattels, lands and tenements, to the use of Our said Lady the
Queen, her heirs and successors, if he the said
fail in the condition endorsed.

Taken and acknowledged this day of
19....., at the said Court at and before the Judge of the said Court.

(Signed)

CONDITION

The condition of the within written recognizance is such that if the
said of
of shall personally appear and
be present at and before the Federal Supreme Court at each and every hearing
of his appeal to such Court and at the final determination thereof and then and
there prosecute his said appeal and abide by the judgment of such Court, and
not depart or be absent from such Court, at any such hearing without leave of
such Court, and pay the said sum of \$. or such sum
as such Court may order to the Registrar thereof, then this recognizance shall
be void, otherwise of full force and effect.

(Signed)
Appellant.

FEDERAL SUPREME COURT (APPEAL) RULES

O. III, r. 14(2).

CRIMINAL FORM 7

IN THE FEDERAL SUPREME COURT
APPELLATE JURISDICTION

RECOGNIZANCE OF SURETIES FOR APPELLANT
SENTENCED TO A FINE

(Territory)
Criminal Appeal No..... of 19....

REG. v.

TO WIT : Be it remembered that on the day of
..... 19
of and

*Here
fill in
name of
Court of
trial.

personally came before the * and
severally acknowledged themselves to owe to Our Lady the Queen the several
sums following, that is to say ; the said the sum
of \$ and the said
the sum of \$ of good and lawful money, to be made
and levied of their goods and chattels, lands and tenements, respectively, to
the use of Our said Lady the Queen, her heirs and successors if
..... now before the said Court fail in the condition
hereon endorsed.

Taken and acknowledged before the said Court on the day and year first
above-mentioned.

(Signed)
Magistrate (etc.)

CONDITION

The condition of the within written recognizance is such that whereas
the said having been
convicted of and having been
sentenced to pay a fine of \$..... for his said offence, and
having now intimated his desire to appeal on a question of law alone (or with
the certificate of the Judge of this Court) to the Federal Supreme Court
against the said conviction, and having, in lieu of payment at and upon his
said conviction of the said sum of \$....., been ordered to
enter into recognizance of bail himself in the sum of \$..... and with
..... sureties in the sum of \$.....,
if the said shall personally
appear and be present at and before the Federal Supreme Court at each and
every hearing of his appeal to such Court and at the final determination
thereof, and then and there prosecute his said appeal and abide by the judg-
ment of such Court, and not depart or be absent from such Court at any such
hearing without the leave of such Court, then this recognizance shall be void,
otherwise of full force and effect.

(Signed)
Surety.

(Signed)
Surety.

FEDERAL SUPREME COURT (APPEAL) RULES

O. III, r. 14(3).

CRIMINAL FORM 8

IN THE FEDERAL SUPREME COURT
APPELLATE JURISDICTION

NOTICE OF BREACH OF HIS RECOGNIZANCES TO
APPELLANT SENTENCED TO A FINE

(Territory)

Criminal Appeal No..... of 19....

REG. v.

TO THE ABOVE-NAMED APPELLANT

WHEREAS you were convicted on the day of
19...., of the offence of

and were sentenced to the payment of \$....., and in default
of such payment to imprisonment, and you entered into recognizances in the
sum of, with sureties in the

sum of each, to prosecute your appeal, and whereas
fourteen days have elapsed since your said conviction, and no notice of appeal
has been served by you, NOW I HEREBY GIVE you notice that unless
you attend at the sitting of the Court to be holden on the

day of 19...., and then show good cause to the
contrary, the Court may order an estreat of your recognizances and those of
your sureties, or may otherwise deal with you according to law.

Signed.....

Registrar,
Federal Supreme Court.

FEDERAL SUPREME COURT (APPEAL) RULES

O. III, r. 14(3).

CRIMINAL FORM 9

**IN THE FEDERAL SUPREME COURT
APPELLATE JURISDICTION**

**NOTICE TO SURETY FOR APPELLANT OF ESTREAT
OF RECOGNIZANCES**

(Territory)

Criminal Appeal No..... of 19....

REG. v.

TO

Here fill
in surety's
name and
address.

of

WHEREAS you the above-named, became duly bound in recognizances
as surety, for that the said

having been convicted of and for

his said offence fined the sum of \$ should duly
prosecute an appeal in relation to the said conviction before the Court, and

whereas the said has not so prosecuted his
appeal, now I hereby give you notice that at the sitting of the Court on

.....next your recognizances may be ordered
to be estreated, unless you then show good cause to the contrary.

Signed.....

Registrar,
Federal Supreme Court.

FEDERAL SUPREME COURT (APPEAL) RULES

O. III, r. 16(3).

CRIMINAL FORM 10

IN THE FEDERAL SUPREME COURT
APPELLATE JURISDICTION

RECOGNIZANCE OF BAIL OF APPELLANT

(Territory)

Criminal Appeal No..... of 19....

REG. v.

BE IT REMEMBERED THAT WHEREAS
was convicted of on the
..... day of, 19.... (and was thereupon
sentenced to),
and now is in lawful custody in Her Majesty's Prison at
and has duly appealed against his conviction (and sentence) to the Court, and
has applied for bail pending the determination of his appeal, and has been
granted bail on entering into his own recognizances in the sum of \$.....
with sureties, each in the sum of \$.....
the said personally
cometh before me the undersigned, being the
and acknowledges himself to owe to Our Lady the Queen the said sum
of \$ of good and lawful money, to be made and levied State
office.
of his goods and chattels, lands and tenements to the use of Our said Lady
the Queen, her heirs and successors, if he the said
fail in the condition endorsed.

Taken and acknowledged this day of
19...., at, before me.

Signed.....

Office : Magistrate, etc. State
office.

CONDITION

The condition of the within written recognizance is such that if the said
..... shall personally
appear and surrender himself at and before the Federal Supreme Court at each
and every hearing of his appeal to such Court and at the final determination
thereof and then and there abide by the judgment of such Court and not depart
or be absent from such Court at any such hearing without the leave of such
Court, and in the meantime not depart from his usual place of abode without
the leave of such Court, then this recognizance shall be void, otherwise of full
force and effect.

The following to be filled up by the Appellant and signed by him :—

When released on bail my residence, to which any Notices, etc., are to
be addressed, will be as follows :—

Signed.....

Appellant.

FEDERAL SUPREME COURT (APPEAL) RULES

O. III, r. 16(3).

CRIMINAL FORM 11

IN THE FEDERAL SUPREME COURT
APPELLATE JURISDICTION

RECOGNIZANCE OF APPELLANT'S SURETIES.

(Territory)

Criminal Appeal No..... of 19....

REG. v.

BE IT REMEMBERED that on this day of
19...., of
..... and
..... of
..... personally came before me
the undersigned being the of and
severally acknowledged themselves to owe to Our Lady the Queen the several
sums following, that is to say, the said
the sum of \$....., and the said the sum of
\$....., of good and lawful money, to be made and levied of their
goods and chattels, lands and tenements respectively, to the use of Our said
Lady the Queen, her heir and successors, if
..... now in lawful custody in Her Majesty's Prison
at fail in the condition hereon endorsed.

Taken and acknowledged before me the undersigned, the day and year
first above-mentioned.

.....
Magistrate, etc.

CONDITION

The condition of the within written recognizance is such that whereas
the said having been convicted of
and now in such lawful custody as before mentioned (under a sentence of
..... for such offence), has duly appealed to the
Federal Supreme Court against his said conviction (and sentence) and having
applied to such Court for bail, pending the determination of his said appeal,
has been granted bail on his entering into recognizances in the sum of
\$ if the said
shall personally appear and surrender himself at and before such Court at
each and every hearing of his said appeal to such Court and at the final
determination thereof, and then and there abide by the judgment of such Court,
and not depart or be absent from such Court at any such hearing without the
leave of such Court, and in the meantime not depart from his usual place of
abode without the leave of such Court, then this recognizance shall be void,
otherwise of full force and effect.

(Sgd.)

Surety.

(Sgd.)

Surety.

FEDERAL SUPREME COURT (APPEAL) RULES

O. III, r. 16(5) & (7).

CRIMINAL FORM 12

IN THE FEDERAL SUPREME COURT
APPELLATE JURISDICTION

WARRANT FOR ARREST OF APPELLANT ON BAIL

(Territory)

Criminal Appeal No..... of 19....

REG. v.

TO THE CONSTABLES OF THE POLICE FORCE (OR COURT (a) State
MESSENGERS OR AS THE CASE MAY BE), AND TO THE (a) office.
..... OF HER MAJESTY'S PRISON Head of
Prisons.

AT

WHEREAS an Appellant
in the Court has been released on bail, and it has now been ordered by the
said court that a Warrant be issued for the apprehension of the said

.....

These are therefore to command you the said Constables (or Court
Messengers or as the case may be) forthwith to apprehend the said.....

..... and to bring him to the (a) (a) State
of the said prison and there deliver him with this warrant into the custody of office.
the said (a) and you the said (a) Head of
Prisons.

are hereby required to receive the said into
your custody in the said prison and there safely to keep him until further
order of the said Court.

.....
Presiding Judge.

DATED this day of, 19.....

FEDERAL SUPREME COURT (APPEAL) RULES

O. III, r. 17(1).

CRIMINAL FORM 13

**IN THE FEDERAL SUPREME COURT
APPELLATE JURISDICTION**

NOTICE OF ABANDONMENT

(Territory)

Criminal Appeal No..... of 19....

REG. v.

TO THE REGISTRAR OF THE FEDERAL SUPREME COURT.

I, having
been convicted of in
the Court at
and having been desirous of appealing to the Court against my said conviction
(or the sentence of passed upon me on my
said conviction) do hereby give you notice that I do not intend further to
prosecute my appeal, but that I hereby abandon all further proceedings in
regard thereto as from the date hereof.

For signa-
ture see
Order III
rule 3

(Signed)
(or mark)

Signature and address of
witness attesting mark.

DATED this day of, 19.....

FEDERAL SUPREME COURT (APPEAL) RULES

O. III, r. 17(2).

CRIMINAL FORM 14

IN THE FEDERAL SUPREME COURT
APPELLATE JURISDICTION

NOTIFICATION OF ABANDONMENT OF APPEAL

(Territory)

Criminal Appeal No..... of 19....

REG. v.

TO THE HONOURABLE THE ATTORNEY GENERAL.

*

This is to give you notice that I have this day received from the above
named a notice of
abandonment of all proceedings in regard to his appeal to the Court. The said
notice is dated day of, 19.....

By Order III rule 17(1) of the Federal Supreme Court (Appeal) Rules,
1958, upon the notice of abandonment being given the appeal shall be deemed
to have been dismissed by the Court.

DATED this day of, 19.....

.....
Registrar of the Court.

*Send copies addressed to :—

- (a) The Secretary to the Governor for the information of the Governor or the Senior Administrative Officer in charge of any Territory.
- (b) The Attorney General or other respondent.
- (c) The Prison Authority, and
- (d) The Registrar of the Court below.

FEDERAL SUPREME COURT (APPEAL) RULES

O. III, r. 20(1).

CRIMINAL FORM 15

**IN THE FEDERAL SUPREME COURT
APPELLATE JURISDICTION**

(Territory)

Criminal Appeal No..... of 19....

REG. v.

To the above-named Appellant.

This is to give you notice that the Court have considered the matter of your application for —

- (a) leave to appeal to the said Court ;
- (b) leave to extend the time within which you may give notice of appeal or of application for leave to appeal ;
- (c) permission to be present during the proceedings in your appeal ;
- (d) admission to bail ;
- (e) leave to withdraw abandonment of appeal ;
- (f) insert here nature of any other application that may have been made ;

and have finally determined the same and have this day given judgment to the effect following :—

.....
Registrar of the Federal Supreme Court

DATED this day of, 19.....

FEDERAL SUPREME COURT (APPEAL) RULES

O. III, r. 20(1).

CRIMINAL FORM 16

IN THE FEDERAL SUPREME COURT
APPELLATE JURISDICTION

(Territory)

Criminal Appeal No..... of 19....

REG. v.

To the Honourable the Attorney General+

To

This is to give you notice that the above-mentioned having applied for —

- (a) leave to appeal to the said Court ;
- (b) leave to extend the time within which he may give notice of appeal or of an application for leave to appeal ;
- (c) permission to be present during the proceedings in his appeal ;
- (d) admission to bail ;
- (e) leave to withdraw abandonment of appeal ;
- (f) insert here nature of any other application that may have been made.

the court have this day finally determined his said applications and have given judgment to the effect following :—

Here set
out the
decision of
the Court.

.....
Registrar of the Federal Supreme Court

+ Send copies addressed to :—

- (a) The Secretary to the Governor for the information of the Governor, or the Senior Administrative Officer in charge of a Territory.
- (b) The Attorney General or other respondent.
- (c) The Prison Authority, and
- (d) The Registrar of the Court below.

FEDERAL SUPREME COURT (APPEAL) RULES

O. III, r. 20(1).

CRIMINAL FORM 17

IN THE FEDERAL SUPREME COURT
APPELLATE JURISDICTION

NOTIFICATION TO APPELLANT OF THE RESULT OF
HIS APPEAL

(Territory)

Criminal Appeal No..... of 19....

REG. v.

To the above-named Appellant.

This is to give you notice that the Court, having considered the matter of your appeal, have finally determined the same and have this day given judgment to the effect following :—

.....
Registrar of the Federal Supreme Court

DATED this day of 19.....

[The inclusion of this page is authorised by S.I. 14/1959]
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LAWS OF THE WEST INDIES

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FEDERAL SUPREME COURT (APPEAL) RULES

O. III, r r. 20(1) & 21(1).

CRIMINAL FORM 18

IN THE FEDERAL SUPREME COURT
APPELLATE JURISDICTION

NOTICE TO AUTHORITIES OF RESULT OF APPEAL

(Territory)

Criminal Appeal No..... of 19....

REG. v.

To the Honourable the Attorney General+

To

This is to give you notice that the above-named having appealed against his conviction of the offence of before the Court, and/or the sentence of passed upon him for the offence of by the Court, the Federal Supreme Court have finally determined the said appeal, and have this day given judgment therein to the effect following —

Here set
out the
decision of
the Court.

(Signed)
Registrar of the Federal Supreme Court.

DATED this day of 19.....

+ Send copies addressed to :—

- (a) The Secretary to the Governor for the information of the Governor, or the Senior Administrative Officer in charge of a Territory.
- (b) The Attorney General or other respondent.
- (c) The Prison Authority, and
- (d) The Registrar of the Court below.

FEDERAL SUPREME COURT (APPEAL) RULES

O. III, r. 24 (1).

CRIMINAL FORM 19

IN THE FEDERAL SUPREME COURT
APPELLATE JURISDICTION

ORDER TO WITNESS TO ATTEND COURT FOR
EXAMINATION

(Territory)

Criminal Appeal No..... of 19....

REG. v.

Name, etc. To
of witness.

of

WHEREAS on good cause shown to the Court you have been ordered to attend and be examined as a witness before such Court upon the appeal of the above-named.

This is to give you notice to attend before the said Court at

..... on the day

of, 19.... at o'clock in thenoon.

You are also required to have with you at the said time and place any books, papers or other things relating to the said appeal of which you may have had notice so to produce.

.....
Registrar of the Federal Supreme Court

DATED the day of 19.....

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FEDERAL SUPREME COURT (APPEAL) RULES

O. III, r. 24(2).

CRIMINAL FORM 20

IN THE FEDERAL SUPREME COURT
APPELLATE JURISDICTION

APPELLANT'S APPLICATION FOR FURTHER WITNESS

(Territory)

Criminal Appeal No..... of 19....

REG. v.

I,, having
appealed to the Court, hereby request you to take notice that I desire that the
said Court shall order the witnesses hereinafter specified to attend the Court
and be examined on my behalf.

(Signed)
(or mark)

.....
Appellant.

For sig-
nature
see Order
III rule 3.

Signature and address of
witness attesting mark.

DATED this day of 19

You are required to fill up the following and sign the same.

1. Names and addresses of witnesses.
2. Whether such witnesses have been examined at trial.
3. If not, state the reason why they were not so examined.
4. On what matters do you wish them to be examined on the appeal.

State shortly the evidence you think they can give.

FEDERAL SUPREME COURT (APPEAL) RULES

O. III, r. 24(5).

CRIMINAL FORM 21

IN THE FEDERAL SUPREME COURT
APPELLATE JURISDICTION

NOTICE TO WITNESS TO ATTEND BEFORE AN EXAMINER

(Territory)

Criminal Appeal No..... of 19....

REG. v.

To

of

WHEREAS on good cause shown to the Court you have been ordered to be examined as a witness upon the appeal of the above-named, and your deposition to be taken for the use of the said Court.

(a) Specify place of examination. This is to give you notice to attend at (a) on the day of, 19.....

(b) Fill in examiner's name. before (b) at o'clock in the noon.

You are also required to have with you at the said time and place any books, papers or other things under your control or in your possession in any manner relating to the said appeal of which you may have had notice so to produce.

.....
Registrar of the Federal Supreme Court

DATED the day of, 19.....

FEDERAL SUPREME COURT (APPEAL) RULES

O. III, r. 24(7).

CRIMINAL FORM 22

IN THE FEDERAL SUPREME COURT
APPELLATE JURISDICTION

CAPTION FOR DEPOSITION OF WITNESS EXAMINED
BEFORE EXAMINER

(Territory)

Criminal Appeal No..... of 19....

REG. v.

The deposition (on oath) taken before me the undersigned, being an examiner duly appointed by the Court in that behalf of of and of witnesses, examined before me under an order of the said Court dated day of 19....., in the presence of the said Appellant (or of his professional representative) and the Respondent at on the day of 19....., which said Appellant (or his professional representative) and Respondent had full opportunity of asking questions of the said witnesses, to whom the depositions following were read by me before being signed by them the said witnesses respectively.

The deposition of of who (upon oath duly administered by me) said as follows :—

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RULES made by the Chief Justice under articles 85 and 110 of the S.I. 7/1958.
Constitution of The West Indies.

<i>Date of making</i>	..	..	..	17th February, 1958.
<i>Commencement</i>	..	..	..	17th February, 1958.

1. (1) These Rules may be cited as the Federal Supreme Court Short title (Evidence) Rules, 1958.

(2) These Rules shall apply in all proceedings instituted in the Federal Supreme Court in the exercise of its original civil jurisdiction under articles 42, 80 and 81 of the Constitution and to all such proceedings taken on or after that day in all causes or matters then pending..

2. (1) In these Rules unless inconsistent with the context— Definitions.

"Minister" in relation to the Federation or to a Territory means the Minister charged with the administration of any statute (including rules, regulations or bye-laws made thereunder) in its application to the Federation or to that Territory;

"Commonwealth country" means any part of the Commonwealth and the Republic of Ireland but does not include the Federation or any Territory thereof;

"Government Printer" means and includes any printer purporting to be a printer authorised to print the statutes of the Federation or of a Territory;

"bank" and "banker" means and include—

(a) any person or persons, partnership or company carrying on the business of bankers in the Federation, or the manager;

(b) any person or persons, partnership or company, who may hereafter carry on the business of bankers in the Federation and who hereafter, under the authority of any statute passed by the Legislature of the Federation or of a Territory and allowed by Her Majesty, may establish a banking association in the Federation, or the manager;

FEDERAL SUPREME COURT (EVIDENCE) RULES

(c) any Government Savings Bank established under a law of the Federation or of a Territory, in relation to which the expression "banker" means the Postmaster General in the case of a Post Office Savings Bank and in other cases means the officer managing such bank;

"banker's books" means and includes ledgers, day books, account books and all other books used in the ordinary business of a bank;

"Consul" and "Vice-Consul" mean any Consul or Vice-Consul appointed by Her Majesty's Government in the United Kingdom.

(2) The Interpretation Regulations, 1958, shall, unless inconsistent with the context, apply to the interpretation of these Rules as if these Rules were an Act.

Evidence, generally

Viva voce evidence.

3. (1) In the absence of any agreement in writing between the parties or their solicitors, and subject to these Rules, the witnesses at the hearing of any action or at any assessment of damages shall be examined viva voce and in open court.

(2) Notwithstanding any agreement by the parties to take evidence by affidavit, the Court, after hearing the affidavits on both sides and considering them unsatisfactory may order the witnesses to be examined viva voce at the hearing and refuse to have the affidavits then read.

(3) The Court or Judge may at any time, for sufficient reason, order that any particular fact or facts may be proved by affidavit or that the affidavit of any witness may be read at the hearing on such conditions as the Court may think reasonable, or that any witness whose attendance in Court ought, for sufficient reason, to be dispensed with, be examined by interrogatories or otherwise by the Registrar or a Commissioner to be appointed by the Court for that purpose: Provided that where it appears to the Court that the other party bona fide desires the production of a witness for cross-examination, and that such witness can be produced within such time as the Court deems reasonable, an order shall not be made authorizing the evidence of such witness to be given by affidavit.

Evidence on hearing of application to be by affidavit.

4. Evidence in support of an application or upon any motion, petition or summons shall ordinarily be given by affidavit, but the Court or Judge, on the application of either party, may order the attendance for cross-examination of the person making any such affidavit, and where, after such an order has been made, the person in question does not attend his affidavit shall not be used as evidence unless by the special leave of the Court or a Judge. By leave of the Court or Judge to be obtained at the time of making the application, motion, petition or summons any particular fact or facts may be proved by the evidence of witnesses given viva voce.

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FEDERAL SUPREME COURT (EVIDENCE) RULES

5. (1) Without prejudice to rule 4 of these Rules, the Court or a Judge may, at or before the trial of an action, order or direct that evidence of any particular fact shall be given at the trial in such manner as may be specified by the order or direction. ^{particular facts.}

(2) The power conferred by paragraph (1) of this rule extends in particular to ordering or directing that evidence of any particular fact may be given at the trial—

- (a) by statement on oath of information or belief; or
- (b) by the production of documents or entries in books; or
- (c) by copies of documents or entries in books; or
- (d) in the case of a fact which is or was a matter of common knowledge either generally or in a particular district, by the production of a specified newspaper which contains a statement of that fact.

6. The Court or a Judge may, at or before the trial of an action order or direct that the number of medical or expert witnesses who may be called at the trial shall be limited as specified by the order or direction. ^{Limitation of medical and expert evidence.}

7. Unless, at or before the trial, the Court or a Judge for special reasons otherwise orders or directs, no plan, photograph or model shall be receivable in evidence at the trial of an action unless at least ten days before the commencement of the trial the parties, other than the party producing it, have been given an opportunity to inspect it and to agree to the admission thereof without further proof. ^{Limitation of plans, etc., in evidence.}

8. An order to read evidence taken in another cause or matter shall not be necessary, but such evidence may, saving all just exceptions, be read on ex parte applications by leave of the Court or a Judge, to be obtained at the time of making any such application, and in any other case upon the party desiring to use such evidence giving four days' previous notice to the other parties of his intention to read such evidence. ^{Reading of evidence taken in other causes or matters.}

Examination of Witnesses

9. (1) The Court or a Judge may, in any cause or matter where it shall appear necessary for the purposes of justice, make any order for the examination upon oath before the Court or Judge, or any Officer or Commissioner of the Court, or any other person, and at any place, of any witness, or of a person called to produce any document, and may empower any party to any such cause or matter to give the deposition of such witness in evidence therein on such terms, if any, as the Court or Judge may direct. ^{Evidence on commission.}

(2) The process for summoning any witnesses or persons for such examination, and their remuneration and liabilities in case of disobedience, shall, unless otherwise provided by these Rules, be the same as in the case of witnesses or persons required to give evidence or produce documents at the hearing of an action.

FEDERAL SUPREME COURT (EVIDENCE) RULES

Letters of request. 10. If in any case the Court or a Judge shall so order there shall be issued a request to examine witnesses in lieu of a commission.

Order for attendance of person to produce. 11. The Court or a Judge may in any cause or matter at any stage of the proceedings order the attendance of any person for the purpose of producing any writings or other documents named in the order which the Court or Judge may think fit to be produced: provided that no person shall be compelled to produce under any such order any writing or other documents which he could not be compelled to produce at the hearing or trial.

Power to administer oaths. 12. Any Officer or Commissioner of the Court, or other person directed to take the examination of any witness or person, or any person nominated or appointed to take the examination of any witness or person pursuant to the provisions of any convention now made or hereafter to be made with any foreign country, may administer oaths.

Examiner to have copy of writ and pleadings. 13. Where any witness or person is ordered to be examined before any Officer or Commissioner of the Court, or before any person appointed for the purpose, the person taking the examination shall be furnished by the party on whose application the order was made with a copy of the writ and pleadings, if any, or with a copy of the documents necessary to inform the person taking the examination of the questions at issue between the parties.

Examination, how taken. 14. The examination shall take place in the presence of the parties, their counsel, solicitors or agents and the witnesses shall be subject to cross-examination and re-examination.

Depositions, how taken. 15. The depositions shall be taken down in writing by or in the presence of the examiner, not ordinarily by question and answer, but so as to represent as nearly as may be the statement of the witness, and when completed shall be read over to the witness and signed by him and by the examiner in the presence of the parties or such of them as may think fit to attend. If the witness shall refuse to sign the depositions, the examiner shall sign the same. The examiner may put down any particular question or answer if there should appear any special reason for doing so, and may put any question to the witness as to the meaning of any answer, or as to any matter arising in the course of the examination. Any questions which may be objected to shall be taken down by the examiner in the depositions; but, except when the deposition may be taken by the Court or a Judge, the materiality or relevancy of a question objected to shall not be then and there decided, but every such question shall be answered subject to the answer being afterwards expunged if the Court should sustain the objection.

Depositions to be transmitted to the Registrar. 16. The depositions authenticated by the signature of the examiner shall be transmitted by him to the Registrar, and shall be filed and shall be subject to the order of the Court.

FEDERAL SUPREME COURT (EVIDENCE) RULES

17. The person taking the examination of a witness under these Rules may, and if need be, shall make a special report to the Court touching such examination, and the conduct or absence of any witness or other person thereon, and the Court or a Judge may direct such proceedings and make such order as upon the report it or he may think just. Special report by examiner.

18. Evidence may be taken in like manner on the application of any person before any action has been begun, when it is shown to the satisfaction of the Court or a Judge on oath that the person applying has good reason to apprehend that an action will be begun against him in the Court, and that some person within the jurisdiction at the time of the application can give material evidence respecting the subject of the apprehended action but that he is about to leave the jurisdiction, or that from some other cause the person applying may lose the benefit of his evidence if it be not at once taken, and the evidence so taken may be used at the hearing, subject to all just exceptions. The Court or Judge may impose any terms or conditions with reference to the examination of such witness and the admission of such evidence, as to the Court or Judge may seem reasonable. Evidence in anticipation of action.

19. If any person duly summoned to attend for examination shall refuse to attend, or if, having attended, he shall refuse to be sworn or to answer any lawful question, a certificate of such refusal, signed by the examiner, shall be filed in the Registry, and thereupon the party requiring the attendance of the witness may apply to the Court or a Judge ex parte or on notice for an order directing the witness to attend, or to be sworn, or to answer any question, as the case may be. Refusal of witness to attend or be sworn.

20. If any witness shall object to any question which may be put to him before an examiner, the question so put, and the objection of the witness thereto, shall be taken down by the examiner, and transmitted by him to the Registry to be there filed, and the validity of the objection shall be decided by the Court or a Judge. Objection by witness to questions.

21. In any case under the last two preceding rules the Court or a Judge shall have power to order the witness to pay any costs occasioned by his refusal or objection. Costs occasioned by refusal or objection.

22. Except where by these Rules otherwise provided, or directed by the Court or a Judge, no deposition shall be given in evidence at the hearing or trial of the cause or matter without the consent of the party against whom the same may be offered, unless the Court or Judge is satisfied that the deponent is dead, or beyond the jurisdiction of the Court or unable from sickness or other infirmity to attend the hearing or trial, in any of which cases the depositions certified under the hand of the person taking the examination shall be admissible in evidence saving all just exceptions without proof of the signature to such certificate. Depositions not to be given in evidence without consent or leave of Judge.

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Attendance of witness under subpoena for examination or to produce. 23. Any party in any cause or matter may by subpoena ad testificandum or duces tecum require the attendance of any witness before an Officer of the Court, or other person appointed to take the examination, for the purpose of using his evidence upon any proceeding in the cause or matter in like manner as such witness would be bound to attend and be examined at the hearing or trial; and any party or witness having made an affidavit to be used or which shall be used on any proceeding in the cause or matter shall be bound on being served with such subpoena to attend before such Officer or person for cross-examination.

Evidence taken at trial. 24. Evidence taken subsequently to the hearing or trial of any cause or matter shall be taken as nearly as may be in the same manner as evidence taken at or with a view to a trial.

Practice as to taking evidence at any stage of cause or matter. 25. The practice with reference to the examination, cross-examination, and re-examination of witnesses at a trial shall extend and be applicable to evidence taken in any cause or matter at any stage.

Special directions as to taking evidence. 26. The practice of the Court with respect to evidence at a trial, when applied to evidence to be taken before an Officer of the Court or other person in any cause or matter after the hearing or trial, shall be subject to any special directions which may be given in any case.

Use of evidence in subsequent proceedings. 27. All evidence taken at the hearing or trial of any cause or matter may be used in any subsequent proceedings in the same cause or matter.

Affidavits

Title of affidavits. 28. Every affidavit shall be intituled in the action, cause or matter in which it is sworn; but in every case in which there are more than one plaintiff or defendant, it shall be sufficient to state the full name of the first plaintiff or defendant respectively, and that there are other plaintiffs or defendants, as the case may be, and the costs occasioned by any unnecessary prolixity in any such title shall be disallowed by the taxing officer.

Form of affidavit. 29. Every affidavit shall be drawn up in the first person, and shall be divided into paragraphs. Every paragraph shall be numbered consecutively, and as nearly as may be shall be confined to a distinct portion of the subject. Every affidavit shall be written, typed or printed book-wise. No costs shall be allowed for any affidavit substantially departing from this rule.

Description and abode of deponent. 30. Every affidavit shall state the description and true place of abode of the deponent or, if a solicitor, his place of business.

Affidavits, how sworn and taken in the Federation. 31. All examinations, affidavits, declarations, affirmations and attestations of honour, acknowledgments and any other deed or document depending in the Court may be sworn and taken before a Judge of the Court, the Registrar or a deputy registrar of the Court or any person lawfully authorised to administer oaths in any Territory and the Judges and other officers of the Court shall take judicial notice of the signature of any such person attached or appended thereto.

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FEDERAL SUPREME COURT (EVIDENCE) RULES

32. In every affidavit the time when and the place where the Time and affidavit is sworn shall be inserted in the jurat otherwise the same shall place of not be admitted in evidence without the leave of the Court or a Judge. taking affidavit to be stated.

33. In every affidavit made by two or more deponents the names Joint of the several persons making the affidavit shall be inserted in the affidavit jurat, except if the affidavits of all the deponents are taken at one time of two by the same officer, it shall be sufficient to state that it was sworn by or more deponents both (or all) of the "above-named" deponents.

34. Every affidavit used in a cause or matter shall be filed in the Affidavit Registry. There shall be endorsed on every affidavit a note showing to be on whose behalf it is filed, and no affidavit shall be used without such filed. note, unless the Court or Judge shall otherwise direct.

35. The Court or a Judge may order to be struck out from any Striking affidavit any matter which is scandalous, and may order the costs of any out application to strike out such matter to be paid as between solicitor and scandalous client. matter.

36. No affidavit having in the jurat, or body thereof any inter- Alterations lineation, alteration or erasure, shall without leave of the Court or a in affidavits. Judge be read or made use of in any proceeding in Court unless the interlineation or alteration (other than by erasure) is authenticated by the initials of the officer taking the affidavit, nor in the case of an erasure, unless the words or figures appearing at the time of taking the affidavit to be written on the erasure are rewritten and signed or initialled in the margin of the affidavit by the officer taking it.

37. Where an affidavit is sworn by any person who appears to the Affidavit officer taking the affidavit to be illiterate or blind, the officer shall certify of blind or in or below the jurat that the affidavit was read in his presence to the illiterate deponent, that the deponent seemed perfectly to understood it, and that person. the deponent made his signature in the presence of the officer. No such affidavit shall be used in evidence in the absence of this certificate, unless the Court or Judge is otherwise satisfied that the affidavit was read over to and appeared to be perfectly understood by the deponent.

38. The Court or a Judge may receive any affidavit sworn for the Use of purpose of being used in any cause or matter, notwithstanding any defective defect by misdescription of parties or otherwise in the title or jurat, affidavit. or any other irregularity in the form thereof, and may direct a memorandum to be made on the document that it has been so received.

39. No affidavit shall be sufficient if sworn before the solicitor acting Affidavit for the party on whose behalf the affidavit is to be used, or before the sworn before solicitor party himself. or party.

40. Any affidavit which would be insufficient if sworn before the Affidavit solicitor himself shall be insufficient if sworn before his partner or sworn before clerk or partner of solicitor. clerk.

FEDERAL SUPREME COURT (EVIDENCE) RULES

Special times for filing affidavits.

41. Where a special time is limited for filing affidavits, no affidavit filed after that time shall be used, unless by leave of the Court or a Judge.

Use of affidavits previously used.

42. All affidavits which have been previously made and read in any proceeding in a cause or matter may, with the leave of the Judge, be used in any subsequent proceeding or at the trial of the same cause or matter.

Attestations and Proof of Acts and Documents outside the Federation

Making attestations.

43. (1) All examinations, affidavits, declarations, affirmations and attestations of honour, acknowledgments or any other deed or document in any cause or matter depending in the Court may be sworn and taken—

(a) in any Commonwealth country outside the Federation before—

(i) any Court or Judge thereof;

(ii) any Notary Public under the signature and seal of his office; or

(iii) any person lawfully authorised to administer oaths in such Court provided that the signature of such person is authenticated by a Judge, the Registrar of a Court of Justice or a Notary Public;

(b) in any country outside the Commonwealth before any of Her Majesty's Consuls or Vice-Consuls.

(2) Any affidavit, declaration or other document which would be admissible in evidence in the High Court of Judicature in England pursuant to the provisions of section 10 of the Emergency Laws (Miscellaneous Provisions) Act, 1953, or of section 204 of the Army Act, 1955, or section 204 of the Air Force Act, 1955, shall be admissible in evidence in the Federal Supreme Court in the like circumstances and subject to the same conditions as such affidavit, declaration or other document would have been admissible in evidence in the High Court of Judicature in England.

(3) The Judges and other officers of the Court shall take judicial notice of the seal and signature of any such Court, Judge, Notary Public, Consul, Vice-Consul or officer attached or appended thereto.

Proof of foreign and Commonwealth acts of state and judicial proceedings.

44. All proclamations, treaties, and other acts of state of any foreign state or of any Commonwealth country, and all judgments, decrees, orders and other judicial proceedings of any court of justice in any foreign state or in any Commonwealth country, and any affidavits, pleadings, and other legal documents filed or deposited in any such court, may be proved either by examined copies or by copies authenticated as hereinafter mentioned; that is to say, if the document sought to be proved be a proclamation, treaty or other act of state, the authenticated copy to be admissible in evidence must purport to be sealed with the seal of the foreign state or Commonwealth country to which the original document belongs; and if the document sought to be proved be a

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by authority of the Government of The West Indies.

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judgment, decree, order or other judicial proceeding of any foreign court or a court of a Commonwealth country, or an affidavit, pleading, or other legal document filed or deposited in any such court, the authenticated copy to be admissible in evidence must purport either to be sealed with the seal of the foreign court or the court of the Commonwealth country to which the original document belongs, or, in the event of such court having no seal to be signed by the Judge, or, if there be more than one Judge, by any one of the Judges of the said court; and such Judge shall attach to his signature a statement in writing on the said copy that the court whereof he is a Judge has no seal; but if any of the aforesaid authenticated copies shall purport to be sealed or signed as hereinbefore respectively directed, the same shall respectively be admitted in evidence in every case in which the original document could have been received in evidence without any proof of the seal where a seal is necessary, or of the signature, or of the truth of the statement attached thereto, where such signature and statement are necessary or of the judicial character of the person appearing to have made such signature and statement.

Proof of Commonwealth Statutes

45. (1) Copies of statutes passed (whether before or after the making of these Rules) by the legislature of any Commonwealth country (exclusive of the United Kingdom) and of orders, regulations and other instruments issued or made (whether before or after the making of these Rules) under the authority of any such statute, if purporting to be printed by the Government Printer shall be received in evidence without any proof being given that the copies were so printed.

Commonwealth Statutes, how proved.

(2) In this rule—

the expression “the legislature of any Commonwealth country” when applied to countries having a central or federal legislature and local legislatures includes both the central or federal legislature and the local legislatures;

the expression “Government Printer” means, as respects any part of the Commonwealth, the printer purporting to be the printer authorized to print the Acts, Ordinances or Statutes of the legislature of that part of the Commonwealth or otherwise to be the Government Printer thereof.

General Presumptions as to certain Signatures and Government Gazettes

46. Where under these Rules a document is declared to be admissible if it purports to be signed by any person as the holder of any office, either as the person making or issuing the document, or certifying a true copy thereof or extract therefrom, the mere production of such document shall be evidence that the signature is the signature of such person and that when he signed it he was the holder of such office.

Proof of handwriting and of office dispensed with.

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Proof of
Gazettes
and the
printing
thereof.

47. (1) The mere production of a paper purporting to be the Gazette of The West Indies or the Government Gazette of a Territory shall be evidence that such paper is such Gazette and was published on the day on which it bears date.

(2) The mere production of a paper purporting to be printed by the Government Printer of the Federation or by the authority of the Federal Government, the Government Printer of a Territory or by the authority of the Government of a Territory shall be evidence that the paper was printed by such Government Printer or by such authority.

Judicial Proceedings

Proof of
judicial
proceedings
of Federal
or Terri-
torial Court.

48. Evidence of any judgment, decree, rule, order or other judicial proceedings of any Federal Court or of any Court of a Territory, including any affidavit, pleading, or other legal document filed or deposited in any such Court may be given by the production of a copy thereof —

- (a) proved to be an examined copy thereof ; or
- (b) purporting to be office copies, that is to say, copies certified and sealed by the Registrar of such Court ; or
- (c) purporting to be signed by a Judge of such Court ; with a statement in writing attached by him to his signature that such Court has no seal and without proof of his judicial character or the truth of such statement.

Proof of
notes of
evidence.

49. (1) A copy of the Judge's notes of the evidence given before any Court in the Federation, or any extract from such notes, shall be admissible in evidence before the Federal Supreme Court if the copy or extract purports to be certified as a true copy or extract therefrom by the Registrar of the Court.

(2) When notes of the evidence are taken on oath or affirmation by an official stenographer before any Court or person in the Federation competent to receive the same, a copy of such notes or extract therefrom shall be admissible in evidence in proceedings before the Federal Supreme Court, if the transcript purports to be certified as a true transcript or extract therefrom by such stenographer.

Judicial Notice

Judicial
notice of
Acts, etc.

50. The Court shall take judicial notice of —
- (a) all Acts, Laws and Ordinances of the Legislature of the Federation and of each Territory ;
 - (b) the impression of the Public Seal of the Federation or of a Territory.

Certain
signatures
to be
judicially
noticed.

51. The Court shall take judicial notice of—
- (a) the official signature of any person in the Government or Legislature of the Federation or of a Territory who holds or has held the office of Governor-General, Governor, Minister, the President or Speaker of a Legislature or of

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any branch thereof, Attorney General, Secretary to the Governor-General or Clerk to the Executive Council or corresponding body ;

(b) the official signature of the Judges of the Court and of a superior court of a Territory and the Registrar and deputy registrar of such courts;

(c) the official seal of every such person or Court ; and

(d) the fact that such person holds or has held such office

if the signature or seal purports to be attached or appended to any judicial or official document.

52. The Court shall take judicial notices of the seal of every Judicial court in the Federation appended or attached to any judicial or official document. ^{notice of Court seals.}

Proof of votes and proceedings of Legislatures

53. All documents purporting to be copies of the Votes and Proceedings or Journals or Minutes of the Federal Legislature or the Legislature of a Territory or any branch thereof, or of papers presented to the Federal Legislature or the Legislature of a Territory or any branch thereof, if purporting to be printed by the Government Printer, shall on their mere production be admitted as evidence thereof. ^{votes and proceedings of Legislatures.}

Proof of Proclamations, etc.

54. Evidence of any proclamation, commission, order, bye-law, regulation, licence or permit issued or made by the Governor-General or by or under the authority of a Minister of the Council of State or by the Governor of a Territory or by or under the authority of any Minister in the Government of such Territory or issued or made by any person authorised so to do by any law of the Federation or of a Territory, may be given — ^{Proof of proclamations, etc.}

(a) by the production of the Federal Gazette or the Government Gazette of the Territory purporting to contain the same ;

(b) by the production of a document purporting to be a copy thereof and purporting to be printed by the Government Printer of the Federation or of a Territory or by the authority of the Government of the Federation or of a Territory ;

(c) by the production of a document purporting to be certified as a true copy thereof or an extract therefrom —

(i) by the Clerk of the Council of State, if the original was made or issued by the Governor-General ;

(ii) by the Clerk to the Executive Council or corresponding body if the original was made by the Governor of a Territory ;

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- (iii) by a Minister of the Federal Government or the Government of a Territory if the original was made or issued by any such Minister ; or
- (iv) by the person issuing or making such proclamation, commission, order, bye-law, regulation, licence or permit, if the original was made or issued by any person authorised so to do under any law of the Federation or of a Territory.

Proof of acts done or in any Territory thereof, the Governor-General, a Minister of the Council of State, a Governor of a Territory or a Minister in the Government thereof or any other person is authorised to do any act whatsoever, production of the Federal Gazette or the Government Gazette of a Territory purporting to contain a copy or notification of any such acts shall be evidence of such act having been duly done.

Proof of Public Documents

Proof of documents declared public by law. 56. Whenever by any law of the Federation or of any Territory —

- (a) any public document ; or
- (b) any record required by law to be kept of any public document or proceeding ; or
- (c) any certified copy of any public document or bye-law or of any entry in any public register or book

is admissible in evidence for any purpose in the Federation or Territory, it shall be admitted in evidence to the same extent and for the same purposes, if it purports to be sealed or impressed with a stamp, or sealed and signed, or signed alone, or impressed with a stamp and signed, as directed by such law of a Territory, without any proof of such seal, stamp or signature or of the official character of the person appearing to have signed the same, and without any further proof thereof in every case in which the original document could have been received in evidence.

Proof of public documents not so declared. 57. (1) Whenever any book or other document is of such a public nature as to be admissible in evidence on its mere production from the proper custody and no law of the Federation or of a Territory exists which renders its contents provable by means of a copy, any copy thereof or extract therefrom shall be admissible in evidence, provided that it be proved to be an examined copy or extract, or provided it purport to be signed and certified as a true copy or extract by the officer to whose custody the original is entrusted.

(2) The certificate purporting to be signed by any officer in whose custody the original of any document is entrusted that such document was made in the course of official duty respecting facts which were of public interest recorded for the benefit of the public and available for consultation by members of the public shall be admissible as evidence that the document referred to in such certificate is of such a public nature as to be admissible in evidence as aforesaid.

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Births, Marriages and Deaths

58. (1) A certified copy of an entry in any register of births, deaths, or Certified marriages purporting to bear the signature of the person having legal custody of such register, or of some person legally authorised to sign such copy at the time of such copy being issued, and authenticated as herein-^{copies of entries in registers} admissible after provided, shall, in the case of any register kept at any place in a Commonwealth country subject to all just exceptions, be prima facie evidence for all purposes of the fact of the birth or death or the legal solemnization of the marriage thereby certified.

(2) Such copy shall purport to bear the signature of a person^{Necessary} describing himself as holding some office, benefice, or position entitling him^{authentication} to the custody of such register, or to sign such copy at the time of so cer-^{copies of entries.} tifying, and the authentication of such signature shall be under the hand and seal of some Notary Public, or under the hand of the Registrar General, or Superintendent Registrar of Births and Deaths or Registrar of Marriages of the Commonwealth country within which such certificate shall purport to have been issued, or under the hand of some member of the High Court or Supreme Court of such Commonwealth country, or under the seal of some court of civil jurisdiction in the district in which the same shall have been issued.

Bankers' Books

59. Subject to the provisions of these Rules, a copy of any entry^{Mode of} in a banker's book shall be received as prima facie evidence of such entry,^{proof of} and of the matters, transactions and accounts therein recorded.^{entry in bankers' books.}

60. (1) A copy of an entry in a banker's book shall not be received in^{Proof that} evidence under these Rules unless it be first proved that the book was,^{book is a} at the time of the making of the entry, one of the ordinary books of the^{banker's} bank, and that the entry was made in the usual and ordinary course of^{book.} business, and that the book is in the custody or control of the bank.

(2) Such proof may be given by the manager or accountant of the bank, and in the case of a Government Savings Bank by the banker or by any person authorised by him.

(3) Such proof may be given orally, or by affidavit sworn or statutory declaration made before any person duly authorised by or under the law in operation in a Territory to administer oaths for the purposes of a superior court in that Territory.

61. A copy of an entry in a banker's book shall not be received in^{Verifica-} evidence under these Rules unless it be further proved that the copy has^{tion of} been examined with the original entry and is correct ; such proof shall be^{copy.} given by some person who has examined the copy with the original entry, and may be given either orally or by an affidavit sworn, or statutory declaration made before any such person as is specified in the last preceding rule.